International Labour Conference
82nd Session 1995

Report V (1)

Home work

International Labour Office Geneva

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Fifth item on the agenda

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INTRODUCTION

At its 258th Session (November 1993) the Governing Body of the International Labour Office decided to place on the agenda of the 82nd Session (1995) of the International Labour Conference the question of home work.

Homeworkers constitute a particularly vulnerable category of workers due to their inadequate legal protection, their isolation and their weak bargaining position. They often receive less than the minimum wage, work very long hours, have no security of employment and are unable to ensure that contractual obligations are observed. The majority of homeworkers are women, who have not been able to gain access to regular employment because of family responsibilities or lack of skills. For home-bound persons, home work provides an opportunity to be economically active. In regions with high rates of unemployment or underemployment, home work is often the only means of earning an income.

Existing labour statistics do not provide reliable estimates of the global home work labour force. However, different surveys and micro-level studies show that home work is a widespread phenomena and that it seems to have been increasing in recent years.

Improving social protection for homeworkers gives rise to considerable controversy. Some critics condemn home work as a practice which perpetuates inferior or unregulated employment conditions and advocate its prohibition. Others are in favour of home work for the flexibility and income-earning opportunities it provides and argue against its regulation. The challenge facing policy-makers is to devise means of improving the effective protection of homeworkers and preventing abuses, while at the same time safeguarding the economic advantages for those who rely on home work for their livelihood.

In 1984 the International Labour Conference, in its conclusions concerning future action in the field of working conditions and environment, placed special emphasis on the need for devising approaches with a view to a more effective protection of homeworkers. In 1985, in the conclusions appended to its resolution on equal opportunities and equal treatment for men and women in employment, the Conference invited the ILO Governing Body to consider home work as a possible new item for future standard-setting. The Conference also called on the ILO, in 1988, in its conclusions concerning rural employment promotion, to design programmes aimed at documenting and improving the legal, economic and social conditions of home-based workers.

Following a decision by the Governing Body at its 244th Session (November 1989), the ILO convened a Meeting of Experts on the Social Protection of Homeworkers which took place in Geneva from 1 to 5 October 1990. It served not only to examine the nature, extent and problems of homeworking and assess national experience in the protection and organization of homeworkers, but to advise on approaches and measures at the national level and on future ILO

action concerning home work, including the possible need for new international labour standards. The report on the Meeting of Experts[1] containing the technical background document prepared by the Office, the summary of the discussions and the conclusions adopted by the experts was published and widely distributed to all member States.

The present report is intended to facilitate the discussion of home work at the Conference, and to provide information that may be useful in replying to the questionnaire which appears at the end.

Chapter I of the report examines different criteria for a definition of home work, its extent and its principal characteristics. This information is particularly relevant to the scope of the proposed international standards. The advantages and disadvantages of home work from the perspectives of employers, workers and national economies are described in Chapter II. An overview of the legal protection of homeworkers is presented in Chapter III. The scope and coverage of existing national legislation are analysed and the gaps and ambiguities identified. Particular attention is devoted to basic principles of protection that would need to be considered in standard setting. Chapter IV summarizes some of the positions of employers' and workers' organizations on home work and the views expressed at the Meeting of Experts, while Chapter V describes and assesses different action programmes that have been successful in improving the situation of homeworkers. Finally, Chapter VI provides information on previous ILO action on home work in response to increasing international concern, examines the relevance of existing international standards, technical cooperation and the conclusions of the ILO Meeting of Experts. These conclusions are reproduced as an Annex to the report.

It has been found in the past that member States whose law and practice are in conformity with the essential provisions of an international instrument are sometimes unable to ratify or accept that instrument formally by reason of comparatively minor divergences between its precise terms and their national law or practice. These divergences may relate to the scope of the instrument; the scope of the relevant national legislation may not completely coincide with the instrument or may define differently the sector or sectors covered by it. Alternatively, they may relate to details of application of the basic principles. It is clearly desirable for difficulties of this nature to be taken into account at the time of the drafting of the instrument, with a view to determining whether it can be rendered sufficiently flexible to overcome these difficulties without detriment to its substantive effect. A question has accordingly been included in the questionnaire inviting Members to indicate any particularities of national law and practice concerning the subject under discussion which in their view are liable to create difficulties in the implementation of an international instrument as conceived in this report, and to make specific suggestions as to how these difficulties may be overcome.

The Conference will deal with this question according to the double-discussion procedure set out in article 10 of the Standing Orders of the Governing Body and article 39 of its own Standing Orders. In accordance with the latter article, the Office has prepared this report as a basis for preliminary discussion at the Conference. The same article requires this report to be communicated to governments not less than 12 months before the opening of

the 82nd Session of the Conference in 1995. So that the Office may have time to examine replies to the questionnaire and to prepare a second report, governments are requested to send their replies so as to reach the Office in Geneva not later than 30 September 1994 as the second report has to reach them not less than four months before the opening of the session.

In this connection the attention of governments is drawn to article 39, paragraph 1, of the Standing Orders of the International Labour Conference, in which they are requested "to consult the most representative organizations of employers and workers before finalizing their replies". The results of this consultation should be reflected in the governments' replies. Governments are requested to indicate in their replies which organizations have been so consulted.

Notes

[1] ILO: *Social protection of homeworkers* — Documents of the Meeting of Experts on the Social Protection of Homeworkers (Geneva, 1990 — MEHW/1990/7).

CHAPTER I

DEFINITION, EXTENT AND PRINCIPAL CHARACTERISTICS OF HOME WORK

Definition of home work

Home work is normally understood as the production of goods or the provision of services for an employer or contractor under an arrangement whereby the work is carried out at a place of the worker's own choosing, often the worker's own home. It is normally carried out without direct supervision by the employer or contractor. This definition of home work does not include the production of goods only for personal or family consumption, nor does it cover home-based work involving a direct transaction between the producer and the final consumer.

An important criterion in defining home work is the place of work, which is outside the premises of the employer. Home work may also be carried out in neighbourhood workstations, workshops or other premises where several homeworkers work together, but which do not belong to the employer(s).

Ownership of tools and supply of materials are not important criteria because many different practices exist. In some cases homeworkers own their tools, while in others the employer provides the tools on loan or on a hire-purchase basis. Usually homeworkers receive the raw materials from the employer, but in some cases they may buy them on the market or from the employer or subcontractor and sell the finished or semi-processed products back to him or her.

The most important criterion which distinguishes home work from other types of home-based economic activity is that there exists a relationship of paid employment between the homeworker and the employer, subcontractor, agent or middleman. This relationship may be established through a written or verbal contract, or an explicit or implicit agreement. Different practices exist and may be specified in national legislation (see Chapter III).

In many cases it is difficult to make a clear distinction between homeworkers and independent (self-employed) workers. Many of those working at home may be counted as self-employed, and may consider themselves as such, even though they are essentially disguised wage earners.[1] The protection of homeworkers under labour legislation often depends on whether it is fully established that they are in paid employment, in other words whether they are, or are not, wage earners.

There are some basic characteristics which distinguish wage earners from the self-employed. The former receive payment for their labour, whereas the earnings of the latter represent the return on capital as well as labour, entrepreneurial skill and risk-taking. Unlike wage earners, the self-employed

person has considerable independence, is responsible for a range of economic and financial decisions and bears a major share of the risks of failure. However, many self-employed, especially in developing countries, may be operating at the margin of subsistence and may be dependent on others for their premises, and their work may be controlled by the owners of such premises or by suppliers of credit or inputs. In such cases the distinction is not always clear.[2]

While it is relatively easy to set out the criteria to define home work, it is much more difficult to demarcate home work from other forms of economic activity in practice or to separate certain homeworkers from other categories of workers. Particularly ambiguous cases include homeworkers who hand out work to other homeworkers and who combine the role of subcontractors or entrepreneurs while continuing to do home work themselves; unpaid family helpers who assist the homeworkers but have no relationship with the employer; homeworkers who work for a producers' cooperative of which they are members; and homeworkers who have organized themselves into an association to improve their bargaining power and eliminate intermediaries.

At national level, different approaches exist with regard to the legal status of homeworkers. While some countries have legal provisions which imply an employment relationship, very few establish the conditions of employment of homeworkers and their rights as workers. Most often this question is omitted in national legislation or left ambiguous. (See Chapter III below.)

Statistics on homeworking

While a large number of studies exist which throw light on the way home work is organized in different countries and industries, these studies do not provide a reliable basis for estimating the total number of homeworkers. Reliable estimates can only be based on data collected through population censuses or from a representative sample of households, as neither the administrative records of labour inspectorates nor surveys of establishments will cover all establishments engaging homeworkers.

Unfortunately, very few countries have tried to measure the number of homeworkers through their regular labour force survey or population census. This could be done either by having "homeworkers" identified as a category or by combining the characteristics "employee" with the information that the person is working "at home" from a question related to travel to work. Out of the 70 countries and territories for which the Office has information,[3] only six (Algeria, Germany, Italy, Japan, Morocco and Hong Kong) had before 1990 included in their regular labour force survey the possibility of identifying this group of workers (or a group reasonably close to it). However, according to information received, all Western European countries, as well as the Russian Federation and Ukraine, are expected to include questions on work at home in their future labour force surveys. A few other countries, such as Australia[4] and the United Kingdom,[5] have published data on home work or work at home in supplements to their regular surveys on an ad hoc basis or have carried out special surveys.

The available information about the latest population censuses indicates that a small number of countries and territories can estimate the number of

homeworkers from this source, either because it is an explicit possible response (e.g. India, Japan, Liechtenstein, Hong Kong and Switzerland) or as "employees" working "at home" (e.g. Belize, Bermuda, Greece, Italy, Singapore and St. Lucia). The census of Côte d'Ivoire included a category "piece workers" and Morocco, Peru and Tunisia had a category for "self-employed, working at home". When well conducted both the census data and the data from labour force surveys will provide information about the number of homeworkers as well as about the kind of work done by them, i.e. the occupation and industry, and about their personal characteristics such as age, sex and educational level attained, which can be compared to the characteristics of other employed persons. India made a special effort in this area in its 1991 census, but the results were not available by mid-1993.

The absence of international statistical guidelines on how to define homeworkers has probably limited the number of countries trying to collect data about this group on a regular basis and has made international comparisons of the data that do exist more difficult. With the newly adopted changes to the International Classification of Status in Employment and the United Nations System of National Accounts this situation has changed. Better statistics on the number and characteristics of homeworkers can therefore become available over the next five to ten years, provided the national statistical agencies are informed that such data are needed.[6]

The special surveys carried out in Australia (1989),[4] the United Kingdom (1981),[5] and the United States (1985)[7] and demonstrate well the different statistical bases upon which they rest and the consequent dangers of attempting to draw comparisons from them. The United Kingdom survey clearly distinguishes between persons who work at home and persons who work from home, using it as a base for their work activities. For example, salesmen, self-employed consultants and professionals of various kinds, freelance journalists and authors, are some of those who work from home. The survey estimates a total of 658,250 for all home-based workers, with 229,790 (mainly women) working at home, and some 400,810 (mainly men) working from a home base. The United States population survey does not make this distinction and records an overall figure of nearly 8.4 million persons doing at least eight hours of work per week at home with very large numbers in the service sector. In the Australian survey, of the 241,500 who worked at home in the course of their main job, over half were found to be in the service sector.

A survey carried out in 1987-88 by the Council of Europe[8] of 15 member countries using data from various sources reported a total of some 2.1 million homeworkers. It was not considered to be particularly accurate, except perhaps in the case of Germany, Switzerland and the United Kingdom; elsewhere, data were available only for industrial homeworkers or for particular branches of industry. In Japan, the general survey on home work[9] carried out in 1988 recorded 997,700 homeworkers.

Little is known about the nature or extent of homeworking in Africa, although it is known to be extensively resorted to in Egypt, Kenya, Morocco and Tunisia. A labour force survey carried out in Algeria in June 1989 identified 145,000 homeworkers, who accounted for 3.3 per cent of the economically active population.[10]

In other developing regions, there is evidence that home work exists to a significant extent. In India[11] the 1981 census listed some 7.7 million persons as main workers in the "household industry" (which would include self-employed artisans and family workers as well as homeworkers). Labour statistics on the other hand gave a figure of 2.25 million persons working at home in the bidi (cigarettes) rolling industry alone.[12]

In the 1980s, in the Philippines,[13] official sources gave a figure of 450,000 to 500,000 homeworkers in the garment industry alone. Empirical data estimate that of the 17.5 million workers in paid and self-employment, 34.2 per cent work at home.[14] In Indonesia[15] a sample survey carried out around Semarang in Central Java had found 21 per cent of households engaged in home-based work.

In Latin America, too, there is evidence that home work makes a major contribution to the output of many industries, particularly garment manufacture. In Argentina[16] the National Council on Minimum Wages concluded as early as 1965 that 55 per cent of garment manufacture was carried out directly by homeworkers, a further 30 per cent by intermediaries who employed homeworkers, and only 15 per cent in factories. In Mexico[17] 5,000 establishments in the garment industry employed homeworkers, who represented 30 per cent of the labour force. There are also large numbers of homeworkers in the garment industries in Chile and Colombia, while in Peru,[18] in the city of Lima and suburbs alone, the Ministry of Labour estimated that there were 215,326 persons working at home in 1987, and that this constituted 10.5 per cent of the economically active population of the city.

Essentially, the available statistics on homeworkers are unreliable and patchy. Overall, however, they give a strong indication that home work is carried out on a significant scale both in industrialized and developing countries. It is significant to note that home work statistics usually underestimate the actual situation. This is partly because of large-scale clandestine and undeclared working; even where the work is not deliberately concealed, there is serious underregistration. In most countries there are as yet no reliable means to correct underreporting. The information on the extent of homeworking, therefore, may well represent merely the tip of the iceberg.

Trends in homeworking

There are several reasons to suppose that homeworking is on the increase in both industrialized and developing countries.

Many countries, particularly the industrialized ones, are experiencing a need for more flexibility and mobility because of rapid technological and structural change and the apparent need for redeployment of the labour force in order to regain the momentum of growth in economies, in productivity and in employment. A trend towards more casualization of paid employment over the last ten to 15 years has been noted in industrialized countries. More people are found in part-time and temporary jobs and other forms of casual employment and less in regular full-time jobs.[19]

The increase in casual forms of employment can also be attributed to the deterioration in labour market conditions over the past 15 years or so, reflected

most clearly in persistent high unemployment, particularly in Western Europe[20] and more recently in Eastern Europe. In Canada a new study by Statistics Canada, published in June 1993, indicated that the number of residents in Metropolitan Toronto working out of their home doubled between 1981 and 1991. Across Canada, the increase over the same period was 40 per cent and the trend is expected to continue over the next five years.

The interest of enterprises in resorting to casual forms of employment may also be explained by changing enterprise structures due to increasing international competition and integration. The model of the "flexible firm" is gaining ground in many parts of the world. In this model, firms follow a strategy of employing a secure group of core workers and a periphery of temporary and casual wage workers, outworkers or subcontractors. This peripheral group of workers provides a labour reserve, permitting the enterprise to adapt labour use rapidly to market demands, without having to bear the costs of a permanent large labour force to meet peak production demands.[21]

Moreover, many industries are subject to growing uncertainties in demand, which leads them to increase the share of their casual workforce.

In the light of increasing pressure to maintain trade competitiveness and reduce labour costs, enterprises are not only undergoing structural changes but are also tending to reallocate work to regions with abundant, often female, labour reserves. This is particularly so in labour-intensive industries. The clothing industry is a typical example of this development and has traditionally employed the greatest number of homeworkers. Other industries, such as high-technology manufacturing and electrical, plastic and light metal goods, also have many labour-intensive processes that can be broken up into self-contained or autonomous tasks which can be carried out independently by a distant labour force. In the service sector also, firms are beginning to reallocate work to depressed rural areas or to countries where wages are lower.

This shift in world production and trade in labour-intensive industries towards low-wage economies has resulted in changes in the international division of labour and the emergence of developing countries as major players in the world labour market. International subcontracting has played an important role in this development. In the clothing industry, for example, the designs, cuts and fabrics are often provided by multinational enterprises to producing firms located in developing countries which make extensive use of home work. The manufacture of clothing items has become truly international and has had a considerable influence on employment in different countries, with employment in the clothing sector expanding in developing countries and contracting in the market economy industrialized countries.[22]

Thus, if technological development in the industry permits such decentralization of the production process, the incidence of subcontracting is likely to be high. In a recent survey of over 3,000 manufacturing firms in Malaysia, over a third of all electronics, textile and garment firms were seen to have subcontracted out part of the production work. Interestingly, the larger the firm size, the higher was the incidence of such subcontracting.[23]

Associated with this trend of growing labour flexibility is the increasing feminization of the labour force. The participation of women in the labour force has been increasing rapidly in most countries, moving towards parity with men

in some.[24] However, the growth of female employment has been particularly high in casual jobs. While some progress has been made, women generally still suffer from an inferior position in the labour market, in terms of wages and conditions of work and employment. This creates serious problems especially for women who are the primary income earners. In the face of the difficulties many women have in entering regular wage employment, home work is a major, and sometimes the only, option to earn an income.

Home-based work is by its nature largely "invisible", and hence often unrecognized in macro data. Micro studies have established that the incidence of home work has been on the rise in recent times. Some of this may be attributed to policy-induced changes in the structure of the economy.

Agricultural policies, for example, have sometimes resulted in increases in the numbers of the landless poor who look for farm jobs seasonally and other odd jobs in the off-season. Even in "traditional" rural households, women find themselves increasingly in situations where they are being compelled to supplement family incomes by home work. Field studies from Asia and Latin America suggest that home-based work is closely related to growing poverty and landlessness among the rural masses.[25]

In the Philippines and Sri Lanka the push for an expansion of craft exports, reinforced by the ready availability of homeworkers with a very low supply price of labour, has led to a significant rise in piece-rated outwork.[26]

In many developing countries of Latin America rapid population growth and massive migration from rural to urban areas have resulted in a transfer of labour resources from agriculture to the informal manufacturing and services sectors. This development, aggravated by crushing debt burdens, spiralling inflation and surging unemployment in recent years, has pushed many poor households into adopting a variety of survival strategies, including home work. Outside the security of wage indexation schemes of the formal sector, they have had to ensure survival in the midst of increasing poverty. There has also been a rapid growth of the parallel economy in these countries in recent times, and the poor are being forced into a multitude of undeclared and clandestine activities, often best performed within the confines of the home.

Technological change is also influencing the ways in which homeworking will develop in future. Telework, in particular, has a potential to gain in importance. The speed at which it has developed so far has been slower than originally predicted, but it must be taken into account as it will undoubtedly spread. However, teleworking should not divert attention from the hard core of issues and problems posed by the more familiar and traditional forms of homeworking.

Characteristics of homeworkers

Many surveys show the very high proportions of women among homeworkers. The following figures will serve to illustrate the point.[27] In Europe women among homeworkers vary from 90-95 per cent in Germany, Greece, Ireland, Italy and the Netherlands, to 84 per cent in France, 75 per cent in Spain and 70 per cent in the United Kingdom. Married women with children predominate, with an average age of 25-45 (i.e. the childbearing/rearing years in

industrialized countries). In Japan 93.5 per cent of the homeworkers covered in the 1988 survey were women, and in the Australian clothing industry 95 per cent are women (the majority of whom are migrants).

In a number of the industrialized countries, home work is concentrated in traditional industrial regions and in large urban areas where large numbers of recent immigrants (often illegal) and ethnic minorities live. Often the women are inhibited from entering more conventional employment owing to race discrimination, poor knowledge of the language and lack of formal education; many prefer to remain invisible and work at home. This can be clearly discerned in certain districts of many urban centres in Europe and North America.

In developing countries women also form the great majority of homeworkers, as in the Brazilian clothing industry and among the 2.25 million *bidi* (cigarette) workers in India, of whom almost 90 per cent are women. In Algeria 97 per cent of homeworkers identified in a survey published in 1991 were women, mostly engaged in sewing (39 per cent), carpet making (19 per cent) and knitting (13 per cent).[28]

In industrial home work, men often take on the role of subcontractors or intermediaries, or carry out ancillary tasks such as collecting and delivering materials and finished work. They seldom work at home themselves, or assist the women. In some countries, however, there are occupations, often the more skilled or craft-oriented ones, where men are active. For example, in hand-loom weaving families in India, women and children tend to do the preparatory work while men do the actual weaving.

The physically or mentally handicapped are another category of workers who often depend on home work for an income. Some countries accord them preferential treatment under home work legislation. In Eastern European countries, especially, they are often organized into cooperatives. In Poland over a quarter of a million homeworkers are organized under the Invalids' Cooperative Movement. Several other countries (e.g. Belgium, France and the United States) have established sheltered workshops for disabled homeworkers to try to prevent isolation and to facilitate distribution of the work. Government schemes to help the disabled exist in many countries and there are training schemes to provide them with skills, some for very specialized or high-level occupations.

Homeworkers often may ask family members to help, especially to meet deadlines during peak periods. This usually involves children, including those in industrialized countries, where it is known that there is much illegal and clandestine home work by children. In the developing countries it is recognized that children are likely to form a significant part of the homeworking labour force. This is a problem looked at in more detail in Chapter II.

The kind of work homeworkers perform

Industrial-type home work still predominates in most countries, whether industrialized or developing. The range of activities and products is very wide. Clothing, textiles, carpets and rugs and certain kinds of leather working (e.g. shoes) have traditionally been home work industries in Europe, South-East Asia,

North America and Latin America. The equipment required is minimal and in many cases tools or machinery are not power driven; the work is labour-intensive and can be fragmented and given out on a piece-work basis. Simple skills and manual dexterity are basically all that is required of the homeworker. But in many cases the range of homeworking activities is expanding. Ancillary tasks, such as sorting, cleaning, packaging and labelling, are labour-intensive and thus suitable for homeworking.

In Germany homeworkers are classified under 13 different industries: the iron, metal, electronics and optical industries employ the greatest numbers, followed by clothing, chemicals and synthetic processing, and paper and cardboard processing.[29] It should be noted, however, that when statistics are being prepared, the persons are likely to be included under the industry heading of the final product, whatever their exact occupation. It seems unlikely, for example, that large numbers of homeworkers are directly engaged in chemical operations at home. In Japan, where subcontracting has become prevalent, coil winding or soldering radio and TV parts are homeworking activities.

In Latin America *maquila* (or assembly) home work is widespread, the task (e.g. of making a finished garment) being broken down into constituent parts which are then put out separately to homeworkers before final assembly of the finished product. The sub-assembly of parts for automobiles has also spread to parts of Latin America.

In India, apart from garment making, there are many traditional industries, some associated with the preparation of food, such as *patad* (or dough) rolling, *bidi* (cigarette) rolling and *agarbatti* (incense stick) making, as well as sub-assembly of electrical and electronic products.

Home work in the service sector is gaining ground. In many industrialized countries, where home work has been stagnant or declining over the past decade or so, it is now increasing again owing to a shift to the service sector. There is strong evidence that in countries such as France, the United Kingdom and the United States the number of persons working at home in the service sector greatly exceeds those recorded in the manual home work sector.

Much of this type of work is of a clerical nature: typing, word and data processing, invoicing, editing and translating. There are also simpler tasks, such as addressing and filling envelopes, preparing publicity mailings, etc. More traditional activities include laundry work, hairdressing, catering and childcare.

At the professional end of the scale is telework, where work is done at home using either a personal computer or a terminal that is linked to the central computer of the enterprise. Some telework, however, is a modern form of clerical activity (e.g. text and data processing) and may be put out from industrialized countries to those in the developing world, where labour and other costs are lower.

In developing countries particularly, a number of activities in the agricultural sector can also be classified as home work: cotton pod shelling, rice husking, tobacco shredding, pea shelling, nut cracking, jute threshing and the like. In some cases even livestock and poultry raising are done by homeworkers who return the animals to the owner when they have reached marketable size. Homeworkers are usually paid in kind for this sort of labour.

Fishing is another sector where certain types of labour-intensive work are put out to homeworkers. Peeling shrimps is a common type of home work in many Asian countries, but also employs many homeworkers in the Netherlands. Cleaning and packaging of other fish is also often done by homeworkers.

Notes

[1] For further discussion of this problem, see ILO: *Report of the Conference*, 15th International Conference of Labour Statisticians, Geneva, 1993, resolution concerning the International Classification of Status in Employment, pp. 65-72; idem: *Revision of the International Classification of Status in Employment*, Report IV, and idem: *Revision of the International Classification of Status in Employment*, Report II, Meeting of Experts on Labour Statistics, Geneva, 1992.

[2] ILO: *The promotion of self-employment*, Report VII, International Labour Conference, 77th Session, 1990, p. 2.

[3] ILO: *Statistical sources and methods*, Vol. 3: Economically active population, employment, unemployment and hours of work (household surveys) (Geneva, 1990).

[4] W. McLennan: *Persons employed at home, Australia, April 1989* (Canberra, Australian Bureau of Statistics, 1989).

[5] C. Hakim: "Homeworking in Britain: Key findings from the national survey of home-based workers", in *Employment Gazette* (London, HMSO), Feb. 1987.

[6] See ILO, *Report of the Conference*, op. cit., and Chapter IV, "Institutional sectors and units", in United Nations: *Revised System of National Accounts*, section G. 3 (ST/ESA/SER.F/2/Rev.4).

[7] F. W. Horvath: "Work at home: New findings from the current population survey", in *Monthly Labor Review* (Washington, DC, Bureau of Labor Statistics), Nov. 1986.

[8] Council of Europe: *The protection of persons working at home*, Report prepared by the Study Group of the 1987/88 Co-ordinated Social Research Programme (Strasbourg, 1989), pp. 8-9.

[9] Management and Co-ordination Agency: *Labor force survey*.

[10] Direction des statistiques sociales: *Enquête main-d'œuvre 1989* (Algiers, ONS, 1991).

[11] Census of India 1981, Series 1: India, Part-II-Special: cited in R. H. Dholakia: "On estimating home workers in India", in B. B. Patel (ed.): *Problems of home-based workers in India* (Gandhi Labour Institute, Ahmedabad, 1989), pp. 33-51.

[12] E. Bhatt: "The invisibility of home-based work: The case of piece-rate workers in India", in A. M. Singh and A. Kelles-Viitanen (eds.): *Invisible hands: Women in home-based production* (New Delhi, Sage Publications, 1987), p. 29.

[13] ILO: *Homeworkers of Southeast Asia, The struggle for social protection in the Philippines* (Bangkok, 1992), p. 2.

[14] ILO: *From the shadows to the fore, Practical actions for the social protection of homeworkers in Philippines* (Bangkok, 1993).

[15] H. Wijaya: "Home-based workers in Indonesia: A short note", Paper presented at the Ahmedabad Workshop, April 1989 (Malang, Indonesia, The Rural Development Foundation; mimeographed).

[16] B. Schmukle: "Relaciones actuales de producción en industrias tradicionales argentinas", cited in J. C. Neffa: *Condiciones y medio ambiente de trabajo de los trabajadores a domicilio en Argentina* (Geneva, ILO, 1987; mimeographed).

[17] ILO: *Contract labour in the clothing industry*, Report II, Second Tripartite Technical Meeting for the Clothing Industry, Geneva, 1980, pp. 21-22.

[18] Asociación Laboral para el Desarrollo (ADEC, ATC): *Trabajo a domicilio — Peru* (Lima, 1989; mimeographed).

[19] ILO: *World employment review* (Geneva, World Employment Programme, 1988).

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CHAPTER II

ADVANTAGES AND DISADVANTAGES OF HOME WORK

During the Governing Body debate on the agenda item a request was made to emphasize both the positive and negative aspects of home work. Indeed the persistent demand for home work on the part of workers and employers alike shows that this form of work presents advantages for both. This chapter will therefore review the advantages and opportunities which home work provides for employers, workers and national economies, before raising the major issues and problems which arise from the nature of this type of work and the ways in which it operates in both developing and industrialized countries.

Advantages for employers

The main advantage of home work for employers resides in its flexibility. This has a direct impact on the cost structure and profit levels of an enterprise. It operates in three main ways: firstly, through a greater freedom to vary the volume of work distributed among homeworkers; secondly, a greater capacity to respond to irregular and seasonal changes in the market; and thirdly, a greater opportunity to vary the nature of the work.

In many countries, most especially but not exclusively the industrialized countries, many sectors which depend on homeworking are characterized by irregular and seasonal fluctuations in demand, high product differentiation and fluctuations due to changes in fashion and trends. Homeworking is well able to adapt the volume and characteristics of the work to market needs.

From the organizational point of view, powerful arguments for employers to resort to homeworking are: being able to recruit from a much larger area than would otherwise be the case if recruitment were confined to areas within "reasonable" commuting distance; engaging workers when and as needed, in line with seasonal or other fluctuations of demand; reducing the need to deal with trade unions; and getting access in specific cases to the "best and brightest" workers.[1]

The most spectacular advantage to the employer is surely the organizational technique of geographical dispersal of the workforce on a global scale, known as "offshoring". By this system work is "put out" from companies in the industrialized parts of the world to workers in the developing countries. For examples, United States firms use clerical workers for electronic-linked data processing and administration in countries such as Barbados, China, India, Ireland, Jamaica, the Republic of Korea, Mexico and Singapore[2] primarily because of the scope for savings in organizational costs (capital, operational and labour) offered by this strategy. This kind of operation is often based on

information technologies with compatible hardware and software, on th existence of an adaptable (often young) workforce familiar with the use of such technologies and on the fact that such operations require little investment and are also thus cheap to dismantle or move elsewhere.

In addition to the beneficial effects on costs of the organizational flexibility mentioned above, there are other highly significant cost advantages of home work as far as the employer is concerned. It provides an opportunity to reduce labour costs. Homeworkers are normally paid on a piece-rate basis and it is generally recognized that the wages paid to homeworkers tend to be lower, in most cases significantly lower, than wages paid to "in-workers" for comparable work in terms of quantity and quality.

Even where wages are nominally the same, real costs may be lowered by increased productivity. This has been observed particularly in the case of telework. According to a Commission of the European Communities report,[3] the adoption of homeworking in two programming companies in the United Kingdom is stated to have led to a 30 per cent or greater increase in productivity. The same report cites a study in France which shows that homeworking in a computer service firm improved productivity substantially. General estimates claim anything from 20 to 100 per cent increases in productivity. Suggested reasons for the increased productivity include absence of interruption and improved concentration, increased motivation and job satisfaction; higher dedication and morale; higher energy levels spent on the job when the time lost travelling and the frustrations of commuting have been eliminated; and an element of unpaid or only partially paid overtime.

Lower labour costs also result from lower social charges for homeworkers. While contributions to social security and other welfare benefits are almost always charged to the employer (or shared between the employer and the employee) in the case of in-workers, they are generally either non-existent or avoided in the case of homeworkers.

Homeworking also affords opportunities to reduce capital costs and overhead running costs. Decentralization of work and production allows economies in factory and office space, together with a lowering of rates and rents, heating, lighting, electricity and other fuel costs, insurance and similar expenditure. In 1982 experiments in teleworking at Rank Xerox in the United Kingdom led to significant reductions of overall operating costs and the permanent decentralization of activities. A French study estimates that homeworking permits a 15 per cent reduction in overheads.[4] Homeworking may also allow the expansion of productive capacity without the need to invest in capital equipment such as buildings, machinery and plant.

Homeworking gives the enterprise greater control over its production costs. For small firms especially, the allocation of work on a piece-work basis makes it possible to calculate labour costs per unit of output much more accurately than would otherwise be the case.

A modern organizational strategy for reducing production and other operating costs consists of breaking down the manufacturing process into smaller and smaller units of production, thus involving a large number of subcontractors so that certain operations are eventually "put out" to individual homeworkers. Certain specialized or key activities are retained in-house to

ensure quality and for other controls and the simple tasks are decentralized to homeworkers. In some cases work of a specialized nature is put out to trusted specialist subcontractors, or even to individual homeworkers.

Certain types of production are characterized by a long tradition of craftsmanship: glass-making, embroidery, embroidering national costumes, carving musical instruments and woodworking are some examples, among many. This type of work requires skill and experience. It involves close attention to detail, manual dexterity and personal creativity. Homeworking is the natural element of such craftworkers and it is unlikely that an employer would be able to find a pool of labour with the requisite skills willing to work under conventional factory conditions. Frequently, tourism helps to stimulate demand for such products, resulting in retail outlets or wholesalers commissioning large-scale production which requires to be put out to a network of homeworkers.

Opportunities for workers

Not all the advantages which home work offers are for the employers. For the workers home work provides an opportunity to contribute to family income; to work at home while attending to young children or working on other projects; to work at one's own pace; and the possibility in some cases of earning more than full-time workers, because homeworkers may work for more than one employer.

Home work offers unique opportunities to be economically productive for workers who are tied to the home for family reasons, such as looking after children or the sick or elderly, as well as for persons who are themselves ageing or in some way handicapped or disabled. For many people in these groups, especially female heads of households, homeworking offers the only realistic opportunity to contribute to the family budget and their own upkeep. The overwhelming evidence is that the vast majority of homeworkers are women who would find it difficult, if not totally impracticable, to find regular employment. This is especially true where, for whatever reason, child-care facilities such as day-care nurseries and crèches at workplaces or in the community are rare, non-existent or unaffordable.

Other categories of disadvantaged persons also avail themselves of the opportunities offered by homeworking. These groups, comprising what might be called the marginalized labour force, include recent immigrants, ethnic minorities and the rural and urban poor, who without this recourse could be virtually destitute, especially in circumstances where social security benefits do not afford a safety net. Recent immigrants and ethnic minorities need time to be assimilated into their new communities. Home work may provide the most readily available entry route into the employment market. It may also provide a "bridge" to more regular forms of employment.

In cases where religious or cultural practices restrict the mobility of women and their direct participation in the open market, work at home may be a suitable option. Even where the work has to be delivered to or collected from the employers' premises, this can be done by men while the work itself is done by women at home. In other cases paid work may not be considered suitable for

"respectable" wives and may therefore have to be carried out in the privacy of the home.[5]

A classic advantage claimed for homeworking is the independence it affords the homeworker. Workers can work in their own home, at times that suit them and at their own pace. They are also free of the rules and constraints inevitably placed on any individual who has to work with others under the same roof. They are free from what may be irksome supervision.

For most teleworkers, certainly in the professional classes, the real gain may be mostly in terms of a true flexibility and autonomy as opposed to the illusion of them for many manual homeworkers.

Home work also contributes to the overall improvement in the quality of working life by avoiding commuter stress.[6]

Advantages for national economies

The income generated through home work is important not only for the survival of poor families but for national economies as well. Home work plays an important role in combating unemployment, and in some cases makes a significant contribution to GNP and export earnings of countries.

Because of the paucity of data on homeworkers at the macro level, very little can be said about the impact of home work on national economies. However, certain indicators do exist to show that homeworking has been contributing significantly to export earnings in several countries in recent times. In the Philippines,[7] for instance, there has been a significant upsurge in the production and export of garments, handicrafts and footwear in recent years. Most of these industries are known to depend heavily on outworking. A high incidence of homeworking in export industries has also been reported from Bangladesh, India,[8] Sri Lanka,[9] Thailand,[10] and Turkey.[11]

While homeworkers are generally left out of official statistical records as productive workers, in practice their contribution to household incomes, especially in very poor households, has been found to be quite substantial. In a survey of rural homeworkers in Aguascalientes in Mexico,[12] it was observed that 69 per cent of the household income in subsistence households came from *maquila* or homeworking. In urban households, by contrast, this dependence is less pronounced on average: in Mexico City,[13] for instance, *maquila* income constituted an average of about 25 per cent of the household income of surveyed households, with a high degree of dispersion. In a sample of women carpet weavers in rural Turkey,[11] 50 per cent of household income was seen to be contributed by homeworking in households involved in mono-crop cultivation. Even for somewhat better-off families that engaged in double cropping, home-based carpet weaving by women constituted one-third of the household income.

In most cases income from homeworking goes towards meeting the basic needs of the households. In a survey of piece-working in Lahore, Pakistan, even though over 38 per cent of the women surveyed said that the savings from homeworking income would go towards the payment of their dowries, more than 75 per cent had used such income for meeting household needs or covering educational or medical expenses.[14]

Another advantage of home work is that it can be used to revive the economy in remote and depressed regions. For example, in rural areas where agricultural work is seasonal and no other work is normally available, home work may provide an important supplement during slack periods in the agricultural cycle. This prevents workers having to travel long distances to find work or uproot themselves from their place of origin, which they would be reluctant to leave even to escape unemployment. In these circumstances the provision of home work can be a deliberate objective of national socio-economic policy. In Switzerland, for example, the Government has long acknowledged the economic, political and social value of home work in helping to check the exodus from rural and mountain areas and has given federal financial and administrative support.

The above examples show that homeworking makes a significant contribution to regional and national economies and to income generation in very poor households where there are few, if any, alternative forms of economic activity available. For examples of programmes that have made an impact on rural economic development see Chapter V.

Problems and issues

Home work, as has been seen, has advantages for employers, workers and national economies. However, these do not naturally or inevitably coincide; they may, and frequently do, produce a clash of interests and raise a wide range of problems and issues. The most crucial problem is that the large majority of homeworkers receive very low levels of remuneration, work excessively long hours and have very low, if any, social protection. There are other dangers, too, of isolation from fellow workers, and the invasion of home work into the non-working life of workers.

Low levels of remuneration

The very low levels of remuneration which the vast majority of homeworkers receive is the most crucial single issue, because it coexists with or leads to other problems. Wages of homeworkers are almost universally based on the piece-rate system which tends to lead to excessively long working hours, the employment of a concealed army of unpaid "assistants" and to child labour. Overwork, in turn, undermines health and damages the quality of life generally.

Low levels of wages for home work are the norm. A study carried out in Ahmedabad, India,[15] found that among informal sector workers home-based workers were the lowest paid. At the time the study was carried out they earned an average of only 130 rupees per month, whereas vendors earned about 250 rupees and labourers 170 rupees. In the Allahabad district of Uttar Pradesh 75 per cent of the women rolling *bidi* (cigarettes) at home were below the poverty line for the rural population. In Gujarat *bidi* rollers were mostly capable of producing about 1,000 *bidis* per day, earning them 6 to 8 rupees, while the official minimum wage at the time was 11.66 rupees per day (the exchange rate at the time (1983) was 9.80 rupees = US$1).

In the garment industry in Delhi[16] the rate for cut work varied between 0.50 rupees to 2 rupees per piece. An average daily income was 6 rupees; very few workers were able to earn 10 rupees per day, and this was only possible during the very short peak season.

There are similar reports of low wages in Indonesia, Philippines, Thailand and in Latin America. Almost always the wages for homeworkers are lower than for equivalent factory workers. In the apparel industry in São Paulo, Brazil,[17] for example, a homeworker received 26 cruzeiros for making a blouse against 55 cruzeiros for the same work by a factory worker, and only 36 cruzeiros for a blazer compared with the factory worker's 72 cruzeiros. Moreover, low wages are not confined to the traditional manufacturing industries such as clothing, but extend in Mexico City to the making of toys, electronic coils and plastics, etc., for a homeworker's weekly wage of 444 pesos for a 48-hour week, significantly below the minimum rate.[18]

The primary causes of low levels of remuneration for homeworkers originate from the fundamental conditions which lead them to this type of work in the first place, i.e. from their basic vulnerability. The great majority of homeworkers are women, who often come from the poorest levels in society, especially in the developing countries, and are thus desperate to find means of economic survival. They are likely to work in rural areas where alternative work, even in agriculture, is scarce and usually seasonal. They work as and when orders come in, being forced out of work when there is none and normally accepting rates of pay that are well below the going rates for unskilled labour. Many surveys carried out in developing countries found that homeworkers complained of an inadequate and irregular supply of work. They were fearful of asking for higher rates because they did not want to risk losing the work, in view of the fact that there were many other homeworkers who would have been willing to do it for the rates offered.

In all countries the homeworker tends to be isolated from other workers: in developing countries the homeworker is in the informal sector of the economy, while in industrialized countries she or he may well be involved in clandestine or "invisible" operations. All these factors, plus others, place homeworkers in a very weak bargaining position with an employer or subcontractor, and they may well be unaware of the eventual price of the product they are making.

The extreme weakness of the homeworkers' bargaining position, particularly in rural areas, was emphasized in a study of garment workers in Aguascalientes, Mexico.[19] In 1982 women machine-sewing flower designs onto lingerie received only 10-20 Mexican cents per item: thus it took them two hours to earn 20 pesos (about 50 US cents at the time). The same review notes that industrial home work in the rural sector is heavily concentrated among women from households lacking land for subsistence agriculture and landless agricultural wage-labour households (i.e. those in the very poorest categories).

Low wage rates prevail in industrialized countries also, especially among immigrant and ethnic minority homeworkers, as for example in the United Kingdom.[20]

In some industrialized countries, even where the piece rates for homeworkers and in-workers are supposed by law to be the same, homeworkers may end up earning less than their factory counterparts because they may in

practice be given more difficult work to do. In Australia,[21] the Federal Clothing Trades Award entitles homeworkers to comparable wages with factory workers, but it is the employer who calculates the time it takes to complete each task. For example, in 1983 a homeworker sewing dresses with "designer labels" was paid between 2.50 and 2.75 Australian dollars per piece (A$1.27 = US$1, 1989). Each dress took more than an hour to complete. She worked 70-75 hours a week to earn 230-240 Australian dollars. Workers in the factory received 6.00 Australian dollars an hour plus benefits. In another case an employer paid 1.80 Australian dollars per garment before tax to a licensed homeworker and allowed about 20 minutes for its completion, regardless of the complexity. The homeworkers indicated most of the styles took more than 20 minutes to complete and some took 40 minutes. Furthermore, homeworkers often had several extra tasks, such as unpacking bundles of work, checking numbers, counting and packing finished garments, etc., whereas in the factory these tasks were performed by other workers.

A study of homeworkers in the Tilburg area of the Netherlands[22] found that homeworkers were paid on a piece-rate basis and that earnings varied depending upon the speed with which they worked. In the garment industry homeworkers require as much time for sewing a piece of clothing as workers need to complete the same task in the factory. The workers sewing ladies' jackets, for example, were allowed 16 minutes to complete a jacket. The time calculated was based on factory production where different workers perform different tasks. The homeworker had to complete all the operations herself and had to change needles during the operation. She averaged a wage of about 4.38 guilders per hour. The average earnings in the Dutch clothing industry were 13 guilders an hour in 1983 (1.99 guilders = US$1) and in the leather industry 14.45 guilders an hour.

The problem of low wages is, in fact, made even more acute when levels of remuneration actually decline or are eroded by inflation.

In the Philippines[23] rural homeworkers (sewers and embroiderers) are reported as being aware that payment in real terms had declined. In 1981, the predominant figure was 50 centavos (roughly 6 US cents) per piece, whereas in 1962 it was 30 centavos (roughly 8 US cents at the exchange rate then), a much bigger sum considering the steady erosion in the value of the peso. The most that a sewer could finish was a dozen baby dresses a day, for which she got paid between 6 and 9 pesos (US$0.73-US$1.10) at 50 to 75 centavos per piece. However, work was available only about two-and-a-half to three weeks a month, so total monthly earnings amounted only to 102-189 pesos (US$12.43-US$23.05). From these earnings were subtracted the cost of the thread and transport to and from the agent.

Similar trends have been noted in Thailand.[24] Most garment workers stated that the rate of payment is low since they sometimes get less than 1 baht and generally no more than 5 baht per piece. Factory workers in the clothing industry earn more, about 11-20 baht a piece, while those in artificial flower-making occupations mostly get a monthly wage. Nearly all of them stated that the rate had never changed during a period of somewhat under two years. Some complained that the earnings had decreased by 11-30 per cent or even more.

One of the factors in the homeworking situation which is a major cause of the depression of the levels of remuneration paid to homeworkers globally is the existence of a network of agents, contractors, subcontractors, middlemen and intermediaries between the enterprise and the individual homeworker. This is the "putting out" system, whereby the total volume of work to be done is gradually divided up into ever smaller amounts until it reaches the individual workers who are to carry out their allotted quota of the whole task or order. Inevitably, this leads to the homeworker receiving a very low wage as each intermediary takes a profit from what was almost certainly a tough price for the work at the outset. The rural piece-workers are at the very bottom of the subcontracting ladder and are the most exploited.

In Latin America[25] it has been observed that, although subcontracting often originates from firms in the medium- to relatively small-size range, it is the large commercial and foreign establishments that employ the greatest number of homeworkers and set the industry's production and competitive standards. In Peru, for example, multinational and national companies contract large numbers of workers to perform work at home; similarly, thousands of domestic seamstresses are recruited in the major urban centres of Mexico (Mexico City, Guadalajara, Monterrey) and in the rural areas to work for the largest clothing manufacturers in the country.

The effect of subcontractors is felt in the same way in India. In the garment industry in Delhi[26] evidence was found of work only being put out to "good workers" (i.e. those who asked no questions and made no complaints). In many cases the intermediary does not pay the full recognized piece rate, but reduces it to as low a figure as experience suggests he can get away with. Occasionally contractors might put up the rate in peak season, if the women protested.

Unscrupulous contractors can reduce real wage levels by a number of unfair practices. Thus, in the *bidi* (cigarette) rolling industry in Gujarat an employer, or more probably a contractor, may reject an excessive number of cigarettes on spurious quality grounds and then sell the "discards" for which the worker does not get paid, or he may require "extras" to be produced again for which he does not pay, or he may deduct the cost of the raw materials for the "discards" from the homeworkers' earnings.[27]

Long hours of work

One of the most commonly claimed advantages of home work is that it enables homeworkers to suit their convenience, to determine the pace of work and thus control the allocation of time between work, family life and leisure. It may not work out so in practice. Home work, in fact, tends to blur the distinction between working life and family life. Since home work is normally remunerated on a piece-work basis, this creates pressure to earn an adequate income. This necessity, combined with the need to meet targets in terms of quantity (especially at times of peak demand) and quality, compels the allocation of a substantial amount of time to work, time which may easily become stretched into excessively long hours when it has to be fitted around family and domestic tasks. Pressure and stress induced by the piece rate and the imperative for many homeworkers to ensure economic survival are likely to be

especially severe among older women, sick women and those with young children. This is a particularly serious problem for female-headed households (common in developing countries such as India) and for the single-parent situation (in which the homeworker will usually, though not invariably, be a woman) where the homeworker is the sole provider.

In India[28] it has been found that because the woman is expected to carry out all the domestic, family and household tasks in addition to homeworking, she carries virtually a double load, married women doing an average of five hours' housework and seven hours' piece work a day.

Homeworkers in Guadalajara[29] provide testimony to the breakneck pace of *maquila* production (industrial subcontracting). The women complain of arduous work schedules and the inability to integrate home work with other household chores, in particular during periods of heavy demand, when they sew and hand in upwards of 700 visors for sports caps a day.

During peak seasons the pressure to meet deliveries and export deadlines becomes even more acute and urgent. Garment workers in the Philippines,[30] for instance, claim that they work altogether 12-14 hours a day, averaging about five to nine hours of sewing. An added burden for some of them (and one which takes them out of their homes for substantial periods) is the collection and delivery of the work which can take anything from 30 minutes to nine hours.

Poor access to social security, welfare and similar benefits

It is not entirely straightforward to generalize about homeworkers' legal access to social security benefits. The difficulties stem from the variety of social security schemes prevailing in different countries, and also from differences in coverage which are usually linked to levels of development in the countries concerned. Many countries in Europe, for example, have compulsory social security schemes, though in practice homeworkers may experience difficulties in benefiting fully because their effective participation depends on their employment status, on whether they are registered workers and on whether contributions are made on their behalf. Sometimes homeworkers are at least partially covered by social security provided by the State, even when they are not covered through the enterprise. Where clandestine homeworking exists, it follows that such homeworkers are often among the very poorest workers whose need for social security is often greatest but who are deprived of it precisely by the clandestine nature of their work.

In developing countries homeworkers are at present usually outside the scope of any existing social security schemes. In India, for example, the employer "provides them no welfare at all, no health insurance, maternity coverage, provident fund, or paid holidays".[31] Similarly, in South-East Asia (Indonesia, the Philippines and Thailand) homeworkers "do not enjoy any vacation or sick-leave credits as do those in the formal sector. Neither fringe benefits nor social security insurance for homeworkers [are] known to exist."[32]

In the *maquiladoras* (assembly industries) of Costa Rica, too, it is stated that homeworkers do not have "access to labour or social security benefits".[33] In Honduras and Venezuela (with the exception of the dressmaking and tobacco

industries) they are not eligible for social security coverage. Even where (as in France and Italy) social security benefits are placed on a comparable basis between homeworkers and in-workers as a legal right, their actual provision is reported to be extensively evaded.

Health and safety problems

Health and safety problems associated with homeworking merit fairly extensive treatment, if only because they are often neglected or overlooked. The dangers may threaten the homeworkers themselves, their immediate families and neighbours (children and the elderly being particularly vulnerable) and the public at large. Obviously, certain industries are potentially more hazardous than others, but even clerical and service activities have the capacity to cause injury. Legislation is fairly silent on occupational risks associated with home work and their prevention. (See Chapter III below.)

Power-driven machinery is clearly likely to present hazards, especially to those unfamiliar with it, but even simple activities such as garment sewing may not be free from dangers, particularly in overcrowded accommodation — the use of sharp instruments such as needles, scissors and knives springs to mind. In the Philippines there are reports of hand injuries and other wounds to rattan workers from the handling of sharp rattan poles and also from the constant and prolonged sanding and finishing of furniture parts.[34]

The effect of excessive working hours, inattention to ergonomic principles, exposure to high levels of heat, humidity, noise and vibration have all been recognized as particularly unsatisfactory features of the conditions in which homeworkers operate. Telework, for instance, may give rise to eye strain and aches and strains resulting from poor posture. Such conditions are potential sources of occupational ill health and may well aggravate latent physiological conditions.

Backache and hand and body strains of hand-loom weavers due to repeated motion and a constant position during craft work are other forms of occupational ill health which have been identified. Homeworking in leather and textiles may introduce into the home hazardous materials and processes without environmental controls or monitoring. Public authorities in Italy and Spain[35] have voiced concern over this feature of homeworking. Many other home-work industries use solvents, varnishes and paints, fixatives and cleaning agents (including acids) and other corrosive chemicals, as well as flammable and even explosive substances. These are all potentially hazardous, especially in the absence of adequate instruction and training about their dangers and the precautions necessary to control them. For example, in the footwear industry toxic polyneuritis can be caused by toxic fumes given off during the processing of hides and leather. In *bidi* rolling there is the risk of nicotine poisoning by absorption through the skin from repeated and prolonged exposure involving contact with the tobacco. Engineering activities, such as welding and soldering, are likely to produce toxic fumes, including lead fumes, as in jewellery manufacture.

The use of electric power for simple machines such as drills, saws and sewing machines will certainly introduce hazards, the more especially if the wiring is

inadequately insulated or the supply cable improperly connected (e.g. bare wires inserted into the socket outlet and wedged with matchsticks, which is a common practice). Crawling infants or young children with inquiring fingers are particularly at risk.

Examples of dangers are legion because of the enormous variety of products made and services provided by homeworkers. The risks to all parties are likely to be exacerbated by overcrowding, slum and insanitary housing and close proximity to other dwellings, typical of urban homeworking everywhere.

Little appears to be known, or at least recorded, about the incidence and causes of accidents to, and occupational ill health of, homeworkers, and it may be that this is a field which would repay study. It has to be admitted, however, that the collection of meaningful data would be a formidable task. A possible way forward might be to incorporate limited scale studies into accident-occupational ill health programmes.

Child labour

A standard reason given in industrialized countries by those who wish to see homeworking in general prohibited is that it gives rise to child labour. In view of the scale of illegal and clandestine home work in industrialized countries there can be no doubt that children there do participate in home work, even if it is only for a few hours after school. However, in poor regions of such countries it is acknowledged that children form an important part of the home-based labour force, often as unpaid family helpers.

The general problem of child labour is much more acute in developing countries where it has been well documented in other ILO publications.[36] However, surveys focusing specifically upon the many children involved in homeworking are very limited at the present time. Some research work has been done in the Philippines,[37] where children are employed in the garment industry in Manila and in the countryside making blouses and men's shirts. The majority of the children (65 per cent) work 15-30 hours per week for low wages.

It is particularly easy to exploit child labour, even when the work is done in the family environment. In addition, child labour interferes seriously with children's natural development and with their education, often at a basic level.

Other problems

The introduction of work into the home not only erodes the time available for other tasks, it also invades the dimension of space. Work-related equipment is brought into the home, taking up possibly already overcrowded living space, which not only deprives the family of the use of that space for its own purposes but may also mean that children play in close proximity to dangerous machinery or harmful chemicals.

Notes

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[2] For other examples of "off-shore" teleworking see ILO: *Conditions of Work Digest*, Vol. 9, No. 1: Telework (Geneva, 1990).

[3] Commission of the European Communities: *Homeworking in Italy, France and United Kingdom* (Brussels, 1986), pp. 20-21.

[4] ibid., p. 22.

[5] A. Prasad and K. V. Eswara Prasad: *Home-working in India: A review* (Geneva, ILO, 1987; mimeographed).

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CHAPTER III

LEGAL PROTECTION OF HOMEWORKERS

This chapter reviews the protection provided to homeworkers by existing national laws and regulations and collective agreements. An effort is made to assess the effectiveness of the protection provided and to point out difficulties, ambiguities and gaps encountered.

National laws and regulations

The legislation of more than 150 ILO member States has been examined to identify legislative provisions applicable to homeworkers.[1] Of these, 18 countries (Argentina, Austria, Cuba, Germany,[2] Hungary, India, Italy, Japan, Morocco, Netherlands, Norway, Peru, Poland, Portugal, Russian Federation, San Marino, Switzerland, Uruguay) have legislation specific to home work. In at least 22 countries (Afghanistan, Bolivia, Chile, Colombia, Costa Rica, Czech Republic, Dominican Republic, Ecuador, El Salvador, Ethiopia, France, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Philippines, Slovakia, Spain, Venezuela) a part of the Labour Code regulates home work to some extent. In these two groups of countries the home work legislation or particular sections of the labour code may be supplemented by provisions in general labour legislation.

In some countries, such as Denmark, Malta and Sweden, provisions applying to home work are included to a varying extent in general labour legislation, but homeworkers may specifically be excluded from some provisions, e.g. hours of work, paid annual leave and health and safety. In Chile, workers are excluded from provisions limiting hours of work if they work without supervision.

In still another group of countries, homeworkers have been included within the scope of national labour laws, either by considering them as regular workers (as in Australia (New South Wales), Canada (Quebec) and France) or by considering their employment relationship as an employment contract (Brazil, Colombia, Finland, Haiti).

In many of the industrialized countries home work legislation dates from the early decades of this century (in Norway from 1918, in the Netherlands from 1933) with, or without, attempts to amend and update them to fit modern circumstances. However, relatively recent home work Acts exist in Hungary, Russian Federation, and Switzerland, all adopted in 1981.

In addition, Peru enacted legislation to incorporate provisions on home work in a new Employment Promotion Act. In 1991 Portugal established a legal framework on home work (Act No. 440) to follow up on provisions in its 1969

egislation concerning individual contracts of employment which envisaged egislation to cover the special situation of homeworkers. Other countries that ave recently adopted or amended provisions on home work include fghanistan, Chile, and Ethiopia, which amended their labour codes to include rovisions on home work, and the Philippines, which adopted regulations in 992 to implement the home work provisions in the Labour Code. The Dominican Republic also made legislative changes in 1992 and adopted egulations in 1993, including the expansion of provisions on licensing of omework.

Countries have adopted different approaches to regulate home work and ddress the special problems it raises. Some countries (Argentina, Germany, taly, Japan, Morocco, Peru, some states in the United States) have adopted egislation with the specific purpose of regulating the terms and conditions nder which home work can be given out (i.e. they may actually prohibit home vork, usually in particular industrial sectors and/or locations). In others (India, Netherlands, Norway), legislation on home work applies only to certain ndustries or economic activities where home work traditionally or mainly ccurs.

The nature of the employment relationship between the homeworker and he employer is crucial in determining whether or not general labour legislation s applicable to homeworkers. This is particularly the case in countries where here is no specific home work legislation and where courts have to decide in ach particular case whether a contract of employment exists.

Definitions

The home work legislation of many countries attempts to define "home vork" and "homeworkers". The majority of home work Acts begin with a lefinition of "homeworker" as "one who performs work for another person at ome, or in a place of the worker's own choice, without the direct supervision nd control of the employer". The homeworker may do the work personally or vith the assistance of others (often members of his or her family). The employer s often defined simply as the person (or undertaking) giving out work to be done ccording to instructions.

In some cases definitions of home work may be restricted to particular ctivities or production processes or comprised within an economic sector or ndustry covered by the general legislation; thus the coverage of home work may e quite limited in scope. The definition may also make reference to the rovision of tools and materials, which in most cases may be supplied by either arty. Other aspects sometimes included in a definition relate to a guaranteed uantity of work.

In a few countries (Dominican Republic, France, Italy, Mexico, Uruguay) a omeworker is permitted — or at least not forbidden — to work for more than ne employer, while in others (e.g. Singapore) homeworkers working for more han one employer are deemed to be self-employed.

Some home work legislation refers to the role of middlemen or ntermediaries (they are defined in Austria and Germany, for example, as ersons used by the employer to pass on work to the homeworker). Provisions as

to their duties are sometimes included. In Argentina an intermedi
considered as both a homeworker and an employer, but in the
Republic and Mexico the use of a middleman or intermediary is pro

Employment status of homeworkers

Legislation is very imprecise regarding the legal status of homewo
though it is crucial to the standard of protection afforded them und
Neither specific home work legislation nor labour legislation has
settled the issue of the employment relationship of the parties. W
exceptions legislation does not prescribe any kind of contract. This ac
the basic imprecision about the status of homeworkers. Even when ho
performed under conditions prescribed by law, these condition
constitute a recognized form of contract. In fact, the nature of the re
between the employer and the homeworker is "surrounded by a va
practice and a vacuum in law such as are quite unknown in the real
contracts".[3]

At the heart of the debate about the legal status of homeworkers is
of the employment relationship. In those cases where homeworkers ar
within the scope of labour legislation they are considered regular w
other countries the question arises whether they are considered
self-employed or in a special category of their own. The natu
employment relationship, not being defined in the law, comes w
competence of the courts.

The concept of subordination

According to traditional labour law, an employment relationship ex
a worker who is directly subordinate to an employer performs work in
return for wages, and under terms and conditions of work set out in
This does not apply to homeworkers. In the first place, homeworke
usually have a well defined job description from the outset: they are
carry out different jobs on an irregular basis. Moreover, homeworke
always carry out the work alone; they may be helped by members of t
and assistants, as permitted by the law of a number of countries. Fi
traditional notion of subordination would imply that the homew
working under the direct supervision and control of the employer on
own premises, which, of course, is not the case.

The notion of subordination is not defined in statutes but
developed by case law. A strict application of the notion of subo
excludes homeworkers from employment status. However, there is a tr
from the traditional concept of subordination because it may no
appropriate to cover certain categories of workers who do their j
distance, outside the enterprise, but on behalf of the enterprise.

An example which illustrates this development is the ar
interpretation given by the Court of Cassation of Belgium to the
subordination. According to this Court "a person who undertakes to wo
the authority of another person does not totally relinquish his freedom
that he retains a certain degree of freedom in the exercise of his occu

craft does not exclude the existence of a link of subordination". The decision has led some to believe that "the logical conclusion of the jurisprudential process would undoubtedly be the inclusion of home work within contracts of employment".[4] However, this broad interpretation has not been unanimously accepted by legal commentators in Belgium.

Very similar arguments have been considered by the courts in India,[5] where procedures in the English Court of Appeal dealing with the master-servant (or employer-employee) relationship have been taken into account. In particular, the 1985 judgement of the Supreme Court of India[6] that the Employees' Provident Funds Act applied to homeworkers in the *bidi* industry makes it clear that the Court considered homeworkers to have employee status in that case.

In France home work legislation has avoided the issue of subordination, which has been explicitly set aside as a criterion for establishing the existence of a contract of employment. The work arrangement between the homeworker and the employer is presumed to be a contract of employment whether or not subordination exists. However, this arrangement does not afford absolute protection since only the presumption of that status benefits the homeworker; if the homeworker claims to be self-employed — possibly under pressure from the provider of the work — the protection is not operative.

In Italy the traditional concept of subordination has been replaced by a different form of subordination, called "para-subordination", which is adapted to the situation of the homeworker. Persons are deemed to perform home work in subordination to an employer where they are obliged to comply with the employer's instructions regarding the work process, its nature and requirements, in the partial or total manufacture or the finishing of products connected with the activity of the employer.

In Portugal new statutory provisions protect those who work at home without the strict subordination relationship but who are economically dependent on the provider of work.

The modern phenomenon of teleworking deserves special mention.[7] Teleworkers "on-line" are directly linked to the central computer of the enterprise, so that their work is controlled by and subordinated to the employer by means of the computer; the teleworker's terminal can be regarded as an extension of the employer's enterprise. However, "off-line" work may be offered to the homeworker and instructions given indirectly, by electronic mail, telephone or post, and output returned in the same way. There is no supervision and control of the work by the employer during its actual execution and it is, therefore, far more comparable with traditional forms of home work than on-line work.

The concept of self-employment

Another complication is that homeworking arrangements combine elements of both employee and independent contractor status. On the one hand, homeworkers, like other employees in the enterprise, are normally dependent on work given out by the employer and subject to quality controls and deadlines for finished work. On the other hand, the workplace is not the employer's and there

is no direct supervision of the worker by the employer, as with an independent contractor.

In a number of countries, such as the United Kingdom, where the only requirement is that the work be performed for the purposes of a business, the authorities have encouraged the view that homeworkers are self-employed.

In deciding whether homeworkers are self-employed or enjoy employee status, the courts tend to base their findings on how the employment relationship is carried out in practice rather than on the wording of the contract; this is intended to prevent deliberate attempts to circumvent the law by wording the contract to make it appear that the homeworker is a subcontractor. Factors taken into account in deciding the status of homeworkers generally include the following:

(a) Personal performance of the work: in the event of a regular employment relationship, workers have to carry out the work personally without the help of third persons. However, in certain instances laws permit the homeworker to be helped by members of the family or paid assistants. The help of other persons has not been considered by case law to be an obstacle to the employee status of the homeworker. However, if the homeworker uses other people to do the work without the authorization of the employer, that is indicative of self-employment status.

(b) Control of the homeworker: economic subordination exists if the employer effectively controls the earning opportunities of homeworkers by providing them with materials, by furnishing them with equipment and by paying them by the piece.

(c) Indirect control of working time: the freedom of homeworkers often extends only to choosing the hours worked, but in practice they may be compelled to produce a target volume within a fixed time in a predetermined manner and on the employer's financial terms.

(d) Marketing of the products: homeworkers are more likely to be self-employed if they set their own prices, market their products, sell to various outlets and arrange their own supplies of raw materials.

(e) Permanency: the permanent relationship between a homeworker and one particular employer is indicative of an employment relationship. If homeworkers are capable of terminating the relationship and offering their work somewhere else, that is taken as an indication of self-employment.

(f) Initiative: if homeworkers can exercise choice as to which orders they will fulfil, then this is indicative of self-employment; but if they are obliged to accept the orders placed with them, they may be presumed to be dependent.

In fact, while conceptually it is not difficult to distinguish between self-employment and home work, in practice it may not always be easy. Sometimes an illegal fiction of sale-purchase is created under which workers are supposed to have purchased the raw materials from the employer and then sold the finished products to the employer. In Germany, machines are sometimes sold at relatively high prices to homeworkers who then get little or no additional orders, a device which is intended to create the impression that they are

self-employed. In the legislation of Ethiopia an agreement for the sale of raw materials or tools by an employer to a homeworker and the resale of the products to the employer or any other similar arrangement is considered a home work contract.

In Latin America enterprises often require homeworkers to register their homes as independent workshops in order to evade the law. In Uruguay, for instance, homeworkers have experienced great difficulty in obtaining benefits established under the law because the employers argue that people work at home as a "hobby".[8]

Overall, it appears that, even where national legislation attempts to determine the employment status of the homeworker and the nature of the work relationship, in practice it is left to the courts to decide the issue on the basis of the facts of each particular case. This makes for great uncertainty, especially for homeworkers but also for employers. There thus appear to be grounds for considering the creation of a special employment status for homeworkers which would take into account the specific characteristics of home work.

Another criterion that may be taken into account in determining whether a homeworker is an employee or self-employed is his or her use of assistants in the execution of the work. Legislation varies considerably on this subject. Some countries permit assistance by dependent members of the homeworker's family, but exclude assistance by other persons (Italy, Japan, Portugal, Switzerland). Elsewhere, the number of assistants permitted ranges from one (France) or two (Germany) to as many as six (Spain). If the threshold is exceeded, it creates a situation which ceases to be classed as home work and becomes self-employment.

Employment contracts

Home work contracts setting out the terms and conditions of employment, where they are required, usually have to be in writing as in many of the Latin American countries and Poland, but in others (Bolivia, Colombia, Cuba, Ethiopia, Equatorial Guinea, Russian Federation) an oral contract is also recognized or is deemed to exist under certain conditions. Under the Swiss Home Work Regulations (1982) the employer must communicate to the homeworker in writing general conditions of employment based on work regulations or collective agreements. Instructions for the execution of work must be passed on in the form of a bulletin or workbook.

In a number of countries the legislation has introduced so-called "home work contracts", but in most cases it is unclear whether they are normal contracts of employment which have been adapted to home work or whether they are new forms of contract establishing a special status for homeworkers. In Spain, for instance, the Workers' Charter refers specifically to "contracts for home work". Spanish courts have dealt with this question in cases where homeworkers stopped receiving work from their employer without being formally dismissed. They have not regarded the home work contract as an employment contract, basing their conclusions on the nature of the employment relationship. In other words, the courts evaluated the relationship to determine whether it had the elements of a regular contract of employment (subordination, regularity of work, and the like). Thus, the inclusion of home work contracts in

the law has often failed to clarify the nature of the employment relationsh
Swiss law, however, has resolved this question: the Code of Obligations sta
that home work contracts are subject to the rules applicable to contracts
employment.

Legal status of assistants

Protective legislation normally applies only to homeworkers themselv
without reference to members of the family and assistants. Questions theref
arise as to whether there is an employment relationship between the assist
and the homeworker. Finnish legislation mentions that an assistant taken on
a homeworker may not enter into an employment relationship with
employer unless this has been expressly agreed with the employer. In some ca
family assistants are full-time workers elsewhere, merely helping out
homeworker at times of heavy workload, but often the assistant is who
dependent on the homeworker for income and working conditions.

The total lack of clarity surrounding the legal situation of assistants h
far-reaching consequences. For example, the legislation may fix the method
calculation of wages only for homeworkers and not at all for assistants. The A
to regulate home work in the Netherlands illustrates the problem: the definiti
of an assistant worker stipulates that assistance may be given "whether f
remuneration or not". Another unresolved problem is the social securi
situation of the assistants. Are they included in the contributions made by t
employer if homeworkers are covered by a compulsory social security schem
or are they responsible for their own contributions?

The French Labour Code has introduced legislation on assistants whi
answers some of the questions raised above. According to section L 721-5,
homeworker who has recourse to assistants is responsible for applying to the
all the laws and regulations that are applicable to employees. In other word
although homeworkers have the status of employees under French law, th
have the responsibility of employers with regard to assistants. This of cour
may create a liability on the part of homeworkers toward their assistants whi
in practice they cannot bear, for instance in the event of non-payment of wag
by the original employer. In these circumstances section L 125-2 of the Labou
Code applies: when the head of an industrial undertaking concludes a contra
for the performance of a certain piece of work with a subcontractor who the
employs people working at home, the undertaking shall, in the event of th
employer's insolvency, be substituted for the subcontractor concerning th
payment of wages, paid leave and payment of family benefit contributions. It
the main employer who becomes liable for the payments to be made to th
assistants. Instead of differentiating between the "main" homeworker an
"assistants", the latter might be better protected if the legislation treated ther
as homeworkers in their own right.

The role of intermediaries

The use of intermediaries is another problem area in determining the natur
of the homeworker's employment relationship. Intermediaries are defined a
persons who derive an income from taking orders from one or more enterprise

and having them carried out by one or more homeworkers. In effect, they charge the employer a percentage of the piece-rate paid to the homeworker. In the majority of definitions of home work intermediaries are acknowledged as an accepted means of matching supply and demand (Austria, Germany). However, in a number of countries they are seen as circumventing the law, and are accordingly prohibited. The Council of Europe[9] has stated that: "it has been established that employers are very often in collusion with the intermediaries in order to use the latter as a front which will relieve them of their contractual obligations towards the workers." Since it is the intermediary who deals directly with the homeworker and who makes the contract, it is very often difficult for the homeworker to know who the real employer is (if it is not revealed in the contract). This is a system which can be used as a device to relieve main employers of their obligations.

Even where, as in Italy,[10] intermediaries are forbidden by law, ways around the prohibition can be found, for example by a "chain" system using a series of subcontractors who ultimately give out part of the work to homeworkers. There is also the system of bogus cooperatives which are forced by the subcontractor upon the homeworkers, who thus have to negotiate through intermediaries. In this way, the subcontractor avoids any direct relationship with individual homeworkers and has no legal obligations towards them.

One of the main problems relating to the circumvention of the law by using intermediaries is their unclear legal status. Are they considered to be employees, employers who hire homeworkers, or are they self-employed? Most national laws do not settle this question. A solution has been adopted in Argentina which demonstrates the complexity of the problem. Intermediaries are defined on the one hand as homeworkers with respect to the undertaking which gives out the work, and on the other hand as employers subject to the obligations imposed by the Act respecting home work with respect to the workers to whom they give work. As regards responsibility, it is the undertaking which is liable because workers recruited by intermediaries are considered to be recruited by the original employer. Undertakings and their intermediaries are jointly liable for payment of wages and for ensuring compliance with requirements as to working conditions.

A few countries, such as Ecuador, treat intermediaries as having the status of the main employer, and as such they are responsible for compliance with the law as it relates to the terms and conditions of work of the homeworker. In France the Labour Code expressly provides that the employer is responsible for compliance even where there is recourse to intermediaries, but the responsibility of the employer can be difficult to prove in practice. In Australia, (Victoria)[11] one of the major difficulties encountered by homeworkers in the clothing sector, which makes use of intermediaries, is the identification of their main or ultimate employer when they are seeking to claim benefits under Victoria's Accident Compensation Act. The Act places the legal responsibility for compensation to homeworkers on the "primary" employer, not the intermediary.

Terms and conditions of work

Terms and conditions of work of homeworkers are covered to a limited extent in home work legislation. In some instances (Denmark, Germany, United

Kingdom) they are left to be determined in collective agreements or award others (Japan) minimum standards are laid down by law. In Austria the term a home work collective agreement are deemed to be an integral part of employment contract. However, many problems arise out of the attemp extend labour legislation to homeworkers without adaptation to the spe circumstances and characteristics of home work.

Remuneration

One of the main purposes of national home work legislation is to ach wages for the homeworker which are comparable with those earned by wor in the enterprise, or to establish a minimum wage applicable to homeworke general or to homeworkers in a particular industrial sector. The section dea with levels of remuneration in Chapter II of this report gives examples suggest that this objective is often not met and that many homeworkers rec substantially less than their counterparts in regular employment. There many reasons for this, including the basic vulnerability of homeworkers and lack of inspection and enforcement, which is discussed later in this chapter. of the problem, however, derives from shortcomings in the wage protec legislation of both industrialized and developing countries.

In many countries the labour legislation leaves the fixing of rates of pay homeworkers to the parties concerned (the employer and the indivi homeworker) or to the collective agreements applying to the industry economic sector concerned. In Australia the rates are fixed in industry or t awards. In France they are established by ministerial orders where there i collective agreement applicable to homeworkers. Home work Acts in s countries (Germany, Italy, Japan, San Marino) provide for the setting u special tripartite committees to fix the wages of homeworkers. In Italy director of the regional labour office is responsible for fixing the rates when regional home work committee cannot reach agreement within a speci time-limit.

In some countries special regulations set out rates of pay for partic industries. For example, in Ireland the Employment Regulation Order, 1 adopted by the Shirtmaking Joint Labour Committee, sets minimum time piece-work rates for all categories of occupations and workers, inclu homeworkers.

Where wages of homeworkers are determined by legislation, it tends t extremely vague. Some of the older laws refer to rates being "based on" wha paid for similar work in the factory without actually saying that they shoul equal. In other cases the provisions state that homeworkers should receiv wage which is comparable with or not less than the wage paid to a worker d the same type of work in the enterprise. This does not take into account difference in working conditions in the factory and in the home or the savi for the employer and extra cost for the worker that home work entails. If basis for comparison exists, then it is the responsibility of the employe evaluate the time necessary for the performance of the task (Switzerland, Uni States), and the method of calculation is communicated to (but not necessa agreed with) the homeworker (Germany). Furthermore, except in the cas

recent Swiss legislation, it tends to overlook the impossibility of making comparisons when similar activities are not carried out in the enterprise.

Minimum wage legislation is applicable to homeworkers in a considerable number of countries, but in others it is not clear whether homeworkers are covered or not (Canada). In Japan homeworkers must be paid at least the minimum wage (the Japanese Home Work Act, 1970, gives the Minister power, if necessary, to fix minimum wage rates). In Mexico regional commissions on minimum wages determine the matter. In some cases special scales may need to be adopted (India). Some countries, such as France, which have introduced a national minimum wage, have applied it to homeworkers, who are thus treated as employees. However, this is a source of legal complications and not always effective. In Canada (Quebec), for instance, the term "employee" includes homeworkers, but the Provincial Court has ruled that workers who are not subject to any control regarding hours and methods of work cannot be considered employees as defined in the Minimum Wage Act.

Laws sometimes provide for homeworkers' wages to be determined on a piece-work basis, each piece requiring a certain amount of time to produce. Many laws are silent or do not regulate the completion times normally fixed by the employer, which may be underestimated, and oblige the homeworker to work harder or longer than a regular worker. In setting piece rates in Portugal, the law provides that the average time taken to produce the item or service is to be considered, the average time being that which would normally be spent on performing the same task in the enterprise. Examples taken from the Australian clothing industry and the Netherlands have already been mentioned in the section in Chapter II dealing with remuneration. The Council of Europe report regards the fixing of completion times by a competent and impartial official (e.g. the labour inspector), when the standard time for a particular task is not fixed by collective agreement, as an essential feature in achieving wage comparability for homeworkers.[12] Regulations in the Philippines provide that a standard output rate or piece rate or minimum rate for particular work can be set by the Department of Labor and Employment at its own initiative or upon request. The setting of rates can involve time and motion studies, individual or collective agreements approved by the Department, or tripartite conferences.

In France the law covers completion times and collective agreements, which cover occupations where homeworkers are employed; otherwise the Prefect of a department — in the absence of a collective agreement — must give a schedule of the times required for the completion of standard types of work. The minimum wage of the homeworker is calculated by multiplying the fixed hourly wage by the time required for the completion of the work. None the less, a survey undertaken by the Commission of the European Communities[13] in France demonstrates that "dead time" which occurs during manufacture (such as changing tools, sorting materials, etc.) is ignored in the calculation of piece rates and that as a result there is always a difference between the time actually taken for the work to be completed and the time which is paid for.

In some countries (Austria, Ecuador, Germany, Netherlands) the rates of pay must be prominently displayed in a place where workers collect or deliver work, or where they receive their wages.

Specific home work legislation, though not general labour legislation, often

requires that homeworkers must be reimbursed for incidental expenses incurred and be compensated for use of their own premises, equipment, power and so on. In several countries (France, Hungary, Peru, Russian Federation) a fixed rate, established as a percentage of the wage, is to be paid as a supplement.

Another factor in the fair determination of wages is transportation costs which are not reimbursed by the employer. When homeworkers have to travel to obtain orders or deliver finished work, they incur expenses whose reimbursement is often not provided for by law. Only in Austria, El Salvador, Hungary, Mexico, Paraguay, Peru and Poland does the homeworker have to be compensated for waiting time spent at the employer's premises, but reimbursement of travel expenses and time spent travelling is not provided for in legislation.

A number of countries (Costa Rica, Guatemala, Haiti, Paraguay, Poland) regulate the limits within which the employer is entitled to make deductions from wages for defective work, spoilage of materials, and the like, and determine the amount that can be deducted.

Finally, the attempt to institute a minimum wage through legislation is completely ineffective when the homeworker does not have sufficient work to achieve this income. Legislation has not addressed this difficulty. National laws and regulations do not oblige employers to give their homeworkers a stable workload; indeed, home work is characterized by an uneven workload and hence by irregular earnings, without any compensatory payments in periods of low or zero earnings.

A collective agreement in Portugal[14] has introduced an obligation to supply work which will permit homeworkers to obtain a monthly wage equivalent to their average monthly wage during the previous year or period of the contract, if it was of shorter duration. This approach might be considered for purposes of legislation in appropriate circumstances.

Security of employment

There are two aspects to the issue of security of employment for homeworkers: the lack of a guaranteed income; and the question of protection against dismissal.

Where homeworkers are recognized as "employees" by legislation, they are protected to the same extent as other employees from unfair dismissal and the employer is bound to give a prescribed minimum period of notice in the case of termination of employment. However, as already noted, in many cases legislation fails to ensure that the homeworker has this status. The question therefore arises whether prolonged failure by the employer to give out work constitutes dismissal. Failure to do so may simply be a consequence of the employer's own lack of orders and not a desire to dispense with the homeworker's services. It may be only temporary, though its duration may be quite unpredictable. Of course, employers may deliberately withhold work from certain homeworkers, in which case they are not obliged to give a reason — as they would in the case of formal dismissal procedures — and no period of notice is required. This, in effect, amounts to "disguised dismissal".

Some countries address termination of a contract based on lack of work. For example, recent amendments to the law of the Dominican Republic provide that

failure by the employer to provide at least three days' work per week during a four-week period or failure by the employee to be available for such work is cause for termination of the home work contract. In Portugal, unless otherwise agreed, the contract of a homeworker who is without work for more than 60 consecutive days is deemed to have expired from the end of that period. In such case, the worker has a right to financial compensation equal to at least 50 per cent of the remuneration corresponding to the period of lack of work or an average over the previous year or of the contract period if it is shorter.

Only a few countries have legislation dealing with the dismissal of homeworkers. The Home Work Act of Germany requires legal termination of the contract to mark the end of the employment relationship. Dismissal procedures are regulated in a similar manner to those in normal labour contracts: in the first two weeks of employment the homeworker can be dismissed on a day-to-day basis, but thereafter the period of notice extends to two weeks. However, notice of dismissal applies only when the homeworker is employed on a regular basis by the employer. The same Act provides that after five years of employment the employment relationship may be terminated only with one month's notice (after ten years, two months; after 20 years, three months). It also contains measures to prevent evasion of the dismissal procedure, since an employer could otherwise very easily circumvent the period of notice by handing out less work or no work at all to the homeworker. Finally, measures are included to prevent unscrupulous practices, such as the large-scale reduction of the work given out in order to force the homeworker to accept the conditions imposed by the employer. If the employer wishes to reduce the amount of work by more than 25 per cent of the original work, he or she must observe the period of notice as though it were a case of legal termination of the employment relationship.

There is also a qualifying period (six months of uninterrupted employment) under Japanese law; if the homeworker has achieved this, then the employer must give formal notice of dismissal. Portugal's law also covers cessation of contracts and provides notice periods depending upon the length of employment.

While the termination of employment is referred to only in a few countries, in even fewer, such as Germany, Portugal and Uruguay, does the law provide for compensatory payment in the case of dismissal. According to the German Home Work Act, homeworkers are entitled to monetary compensation, in the event of dismissal, in the form of a percentage of the wages earned in the previous 24 weeks. Also, as noted above, compensation is provided for in Portugal when lack of work results in the expiry of a contract.

Hours of work

Although it may seem inappropriate to regulate hours of work for workers who are genuinely free to organize their working time, freedom of choice should not lead to excessive hours. Yet this is common in homeworking where the time-limits for delivery are often too short, the completion times underestimated by the employer and the wages low. As a result the homeworker tends to have to work longer in order to earn a minimum wage.

In most countries regulations governing hours of work and overtime do not apply to homeworkers. In Belgium homeworkers are specifically excluded from the provisions dealing with hours of work and Sunday rest, while in Brazil and Canada they are excluded from legislation respecting hours of work and overtime.

In France, Haiti, Morocco and the Russian Federation the same rules apply to homeworkers as to others in the same undertaking. In Haiti the employer must arrange delivery dates which respect statutory provisions regarding hours of work, weekly rest and public holidays.

A few other countries (Austria, Germany, Japan and Switzerland) attempt to limit excessive working hours. According to the Austrian Home Work Act the time allowed for delivery of the work should permit the order to be completed within the statutory working hours and without working on Sundays and public holidays. When home work is given out to pregnant women or nursing mothers the time allowed must be such that the order can be finished without recourse to night work or work on Sundays or public holidays. To ensure that these provisions are effectively applied, the labour inspectorate has discretionary power to decide, at the request of the employer, intermediary or homeworker, what quantity of work may be permitted.

In Germany the amount of home work handed out may not exceed what an able-bodied worker is capable of performing without help in the normal working time of comparable industrial workers. In Japan the giving out of work must be organized so as to avoid the homeworker having to work longer than ordinary hours. The Federal Act respecting home work of Switzerland states that the time-limit for the completion of work must be such that the homeworker does not work more than eight hours a day, or on Sundays. The Swiss law goes even further by requiring the employer also to evaluate the personal production capacity of the homeworker.

It may be observed that these limitations on hours of work need to be linked to realistically determined completion times for tasks, if they are to guarantee the homeworker reasonable earnings in addition to limiting hours of work. Otherwise, they could have the effect of reducing earnings by reducing working time.

Annual leave with pay and paid public holidays

The legislation of several countries gives homeworkers the right to annual leave under conditions similar to those of workers in the enterprise, although annual leave pay may be calculated in a variety of different ways. A major obstacle to the enjoyment of this right, however, is the requirement that homeworkers be employed on a more or less permanent basis by one employer. In other words, when homeworkers work on an irregular basis and for different employers they are not entitled to such benefits.

In Argentina a worker must have worked for 12 fortnights in the calendar year in order to qualify, while in Austria there is a leave entitlement of two-and-a-half working days per month worked, provided the homeworker has a period of six months' continuous employment with the employer. In Canada (Ontario) and the Dominican Republic a homeworker is entitled to two weeks' paid leave on completion of each 12 months of employment.

The qualifying period is 12 months in El Salvador and 11 months in Panama. In Germany 18 days' paid leave is granted, the pay amounting to 6.75 per cent of the gross annual wage. In Hungary only certain homeworkers have legal rights to paid annual leave, but in Uruguay all homeworkers are eligible to receive paid annual leave in accordance with the time worked and salary earned; employers make contributions to a home work fund from which various benefits, including paid leave, are provided.

A similar continuity of employment is often required to qualify for entitlement to public holidays. In Paraguay, for instance, homeworkers are entitled to paid public holidays if they have worked during the preceding fortnight.

Legislation sometimes provides for the same paid leave for homeworkers as for regular workers (e.g. in Norway); other countries exclude them explicitly from paid annual leave provisions (Barbados, Ireland and Paraguay).

Some laws provide for the payment of an allowance instead of paid leave. In France homeworkers and their assistants are entitled to an annual leave allowance amounting to 10 per cent of the gross annual wage. However, it appears that this encourages homeworkers to work longer, as it is financially more attractive not to take leave because the allowance is then higher. A more effective approach is to grant a number of days' leave with an allowance, as in Austria and Germany.

Whether such legislation really works depends in part on the attitude of the employer. The provisions relating to paid annual leave are liable to be ineffective if the employer continues to give out work during the leave period of the homeworker; some laws, such as that of Argentina, accordingly stipulate that no work may be given out during a holiday period.

Social security

In most countries social security is an employment-related system based on the compulsory contribution of employers, workers, or both. The amount of pension and other periodic payments in the event of unemployment, sickness, maternity or accident at work is usually related to the level of the worker's earnings. Eligibility for social security benefits is dependent upon the existence of an employment relationship. Consequently, social security is guaranteed only for homeworkers who enjoy employee status under national legislation; since in many countries this is not the case, homeworkers are likely to be excluded from social security systems.

In countries where there are "safety net" systems providing a low flat-rate benefit to all residents and citizens irrespective of individual contributions, provided the beneficiary satisfies a residential qualification, homeworkers may also benefit. Some social security systems allow for contributions on a voluntary basis by workers, especially the self-employed, with government participation in the financing through taxation.

Countries with extensive home work legislation often clearly establish social security coverage for homeworkers, the measures that apply to regular workers being extended *de facto* to homeworkers. However, the fact that the working conditions and needs of homeworkers are significantly different may give rise to

problems of application. Furthermore, eligibility for benefits under the scheme may depend on a number of qualifying conditions which homeworkers may find it difficult to meet.

Entitlement to social security benefits in some cases depends on a minimum number of hours worked, combined with minimum earnings. In Austria, for instance, homeworkers must earn the equivalent of 10 to 12 hours' pay a week. In the Netherlands they have to earn at least 40 per cent of the monthly minimum wage to qualify. This minimum income requirement may be difficult for homeworkers to fulfil because of their low wages. Moreover, the workload is often deliberately kept below this level by employers. The requirement that work be continuous can also be a serious obstacle to entitlement to social security benefits, since home work is characterized by an irregular and uneven workload. The Commission of the European Communities[15] recommends that legislation provide that periods of work by a homeworker working for various employers may be added together for the purpose of qualifying for social security benefits.

In many industrialized countries (e.g. Austria, Czech Republic, Finland, Germany, Slovakia) homeworkers are at least partially covered by social security, provided they are registered workers and contributions are made on their behalf. In the Netherlands and Spain special social security regulations have been adopted concerning homeworkers. In Portugal homeworkers are covered by the general social security system that covers those who work for another person and are protected in the event of family responsibilities, maternity, occupational diseases, invalidity, old age and death. In Uruguay homeworkers are generally covered by the social security system applicable to other workers. Medical assistance is available if homeworkers meet the minimum income requirements and contributions are up to date. If they cannot qualify under provisions in the law and collective agreements concerning days and hours worked, the health insurance system will provide benefits for homeworkers who work at least 13 days a month or receive 1.25 times the national minimum wage. In Honduras and Venezuela homeworkers are not eligible for social security except in the dressmaking and tobacco industries.

Given the precariousness of the situation of homeworkers, entitlement to social security is of vital importance for them. However, in many developing countries social security arrangements either do not exist or are in their infancy, and the homeworker is therefore no worse off in this respect than others.

Unemployment benefit

It has already been seen that, because of their uneven workload, homeworkers may suffer many periods of "temporary unemployment", a situation which is not normally recognized by social security legislation. Qualifying requirements for unemployment benefits often include a minimum amount of employment during a specified period and/or a minimum level of earnings during the period. In the United Kingdom, for instance, homeworkers are entitled to unemployment benefits only when they have paid contributions for at least 50 weeks and earned a certain income. In the Netherlands, the unemployment benefit scheme, which is not restricted to people in permanent employment, calculates benefits on the basis of previous earnings, which means

that homeworkers with a low and irregular income receive low unemployment benefits.

Sickness benefit

Although homeworkers are theoretically entitled to sickness benefit, this right is jeopardized when they are not declared for social security purposes by their employer. Even if they are regarded as regular workers by law, they do not always have the same rights. In Germany, for instance, workers receive their full wage for six weeks if they are sick, whereas homeworkers are entitled only to a percentage of their normal earnings.

Another problem concerns sickness insurance. The Netherlands, for example, distinguishes between insurance by the day and by the week, and a homeworker in irregular employment may be covered only on the days when the work is to be carried out. This has created many problems for homeworkers, as sickness benefit can be refused if the sickness existed prior to the day covered by insurance, for example the day a new assignment is due to start.

Maternity benefit

Bearing in mind that the majority of homeworkers are women, maternity benefit is a significant issue. Maternity leave and other benefits may apply to homeworkers in theory, but in practice very few have them. Associated welfare benefits, such as paid leave to take care of a sick child, parental leave or paid breaks for nursing mothers are usually not available to homeworkers.

Occupational safety and health

Occupational safety and health can be especially important when work is done in premises and conditions which have not been designed for the purpose. Widely different approaches characterize the legislation on the subject. In a number of countries (Costa Rica, Panama, Uruguay, Venezuela) the work to be performed, or the premises to be used, must meet the health and safety conditions prescribed by the competent authorities. In Germany this approach has been extended to permit the issue of ordinances dealing with hazards identified as common in specific sectors of industry.

Elsewhere (France, Italy, Japan, Poland, Portugal), various rules apply to prohibit certain work at home such as would endanger the life, health or morals of homeworkers, persons living with them or the general public. In yet other countries, such as Austria and Haiti, the law stipulates that such dangers must be avoided or empowers the Minister to prohibit home work in certain circumstances (this is the case in Austria if certain prescribed hazardous substances are to be used). Employers in a number of countries (Costa Rica, Japan, Switzerland) are required to instruct homeworkers on the precautions necessary to prevent danger when they are handling hazardous substances and equipment.

In a few countries (Bolivia, Guatemala, Norway, United States (New York)) the handling of foodstuffs and other consumer goods by homeworkers is prohibited if they could be a means of spreading infectious or contagious

diseases. In Portugal homeworkers whose work involves handling food must be certified by a medical examination to be free of communicable dis

At the other end of the scale, Bolivia, Finland and Singapore ex homeworkers from the scope of health and safety legislation altogether, wh Denmark and Sweden they are excluded from certain specified prov only.

Quite apart from the difficulty of enforcement, which is discussed la this chapter, legislation ensuring the health and safety of homeworkers is quite inadequate. The Council of Europe[16] report urges that occupational h and safety matters should be dealt with in home work legislation, possibly o model of the Italian law which bans activities involving the use of mat which are harmful or endanger health. This prohibition could be relaxed in where adequate precautionary measures are taken.

Reporting, registration and supervision

The legislation of several countries (Canada (Ontario), Dominican Rep Russian Federation) seeks to control homeworking by requiring the emplo obtain a special permit or licence in order to operate a home work system In other cases (Austria, Canada (Manitoba), Germany, Mexico, Sweden) th is permissive, but requires the employer to notify the authorities when work is carried out for the enterprise.

Employers can also be obliged to keep records listing the homeworkers employ and to make the records available to the authorities either as repo a regular basis or on request. In several countries (Argentina, Brazil, Fr Nicaragua, Spain, Venezuela) homeworkers must be given a workbook must contain certain prescribed information regarding wages paid, work ha out and completed and, in some instances, the terms and conditio employment.

Supervision and enforcement of the employment conditions imposed b legislation (terms and conditions of employment, application of minimum provisions, health and safety matters, and the like) is often the responsibil the national labour inspectorate. In several countries (Argentina, Au France, Germany, Italy, Japan, Switzerland) where specific home work exist, special tripartite home work committees have been created to supe the implementation of the legislation.

Most legislation provides for some kind of penalty (usually a fine non-compliance with legal obligations. However, an employer is liab imprisonment in Argentina for failing to pay the minimum wage, in Dominican Republic for concealment of the existence of a home work con in Germany for failing to inform homeworkers of health and safety legisl and in Japan if the occupational health and safety legislation is contraven

Apart from the inherent shortcomings of national laws and regula on home work, the greatest single problem is lack of supervision enforcement.

In countries where the home work legislation is very old it tends not enforced. In the Netherlands, for instance, the Home Work Act of 1933 see have fallen into neglect. The list of activities contained in this Act whic

considered to constitute home work is completely outdated; it takes no account of recent developments in this field, and the labour inspectorate responds only in case of complaints.

The inconsistent way in which general labour legislation is applied to homeworkers has led to confusion in interpretation, leaving the courts to determine the employment status of homeworkers when clarification is needed. This creates uncertainties for the enforcing authorities and a possible reluctance on their part to press enforcement in contentious areas.

The most significant enforcement problem concerns the remuneration of homeworkers. Although there are laws requiring that homeworkers earn at least what workers doing the same work in the enterprise earn and no less than the minimum wage, in practice homeworkers are often paid less than this. There are three main reasons for this:

Firstly, the institutions created to fix wages and working conditions may not always operate effectively. For instance, the Dutch home work committees and the wages boards in Argentina have never been set up. In Argentina the Ministry of Labour and Social Security had to set minimum wages for homeworkers because wages boards were not functioning. In Italy, the tripartite supervisory committees depend for their efficient operation on the interest shown by the employers and the zeal of the workers' representatives.

Secondly, the requirement that employers register homeworkers with the authorities and give them wage books containing information about wages and terms and conditions of employment is frequently evaded.

Thirdly, the ineffectiveness of home work committees and the limited resources of national labour inspectorates have not facilitated the supervision of homeworkers. When faced with massive non-compliance with the requirement to register, the national labour inspectorates have no effective means of overcoming this basic obstacle to enforcement. Homeworkers are dispersed and isolated and thus less able to invoke the traditional mechanisms of control for themselves. Nor is it certain that increasing the size or power of national inspectorates would, by itself, bring about a significant improvement in registration and record-keeping and the detection of contraventions.[17]

Effective health and safety inspection is also inhibited by several factors, including failure of employers to register their homeworkers. In addition, occupational health and safety measures are rarely effectively enforced in the home work sector, since labour inspectors and other supervisory officials often have no legal right of entry into private homes for inspection purposes. The law may need modifying in this respect, with stringent safeguards to prevent abuses and violation of the sanctity of the home.

Where legislation provides for the protection of homeworkers through collective agreements, the scope of coverage is critical. It is interesting in this respect to compare the provisions on home work in the French Labour Code and the Italian Act to issue new rules governing home work, 1973. The Italian courts have made collective agreements apply to homeworkers, even when they are not specifically mentioned in the agreements. However, in France section L 721-6 of the Labour Code provides that collective agreements apply to homeworkers falling within their scope but allows provision to be made in such agreements to exclude them.

Implementation of the law is further handicapped by the use of intermediaries, which makes it difficult to identify the employer who is legally responsible for compliance with the legal requirements.

In general, the overall level of supervision and enforcement of home work legislation is not high, and there is evidence that the degree of compliance is correspondingly low.

Collective agreements

Collective agreements form a small, though significant, part of national strategies to protect homeworkers. Only Germany appears to have collective agreements that apply exclusively to them; in other countries the provisions on home work are incorporated in collective agreements applying to all employers and workers in a particular sector of industry or economic activity. In a number of cases collective agreements are provided for in legislation, though there are in fact relatively few provisions affecting homeworkers, a reflection, perhaps, of the limited involvement of trade unions in the issue.

Some collective agreements prohibit home work in specific industries or localities. This is the case in the United States and, for certain parts of the garment and hat-making industries, in Canada (Quebec). In the printing industry in the Netherlands the prohibition can be lifted temporarily if circumstances require. In the clothing industry in Norway and the United States home work may not be given out to persons already employed in the enterprise.

The objective of most collective agreements is not the prohibition of home work but the establishment of rates of pay for homeworkers which are comparable with those received by persons employed on similar work in the enterprise. This reflects a desire both to achieve equity for homeworkers and to protect factory workers' wages from being undermined by lower wages through home work. Wages are paid by the hour, day or month, or are calculated on a piece-rate basis, depending upon the usual method of payment in the industry concerned. In Belgium the minimum hourly rate for tailors and dressmakers is calculated by dividing the piece rate by the hours necessary for manufacturing the piece. If no provision is made for equal pay or for the method of calculating the wage, collective agreements tend to deal with remuneration in rather general terms. In the engineering industry in Sweden the agreement merely states that payment for work done in the home must be calculated in such a way as to ensure the homeworker a reasonable income.

In addition to dealing with basic earnings, collective agreements often make allowance for the particular situation of homeworkers. Thus they may be entitled to compensation for incidental expenses (such as heating, lighting and the like) and for depreciation of equipment (e.g. sewing machines). Compensation usually takes the form of a percentage of the wage without itemizing the expenses separately. In Germany dressmakers, tailors and umbrella makers are entitled to a 10-12 per cent supplement to their wages. However, in some collective agreements the percentage varies according to who provides the equipment; in the shoe industry in Germany workers providing their own machines are entitled to an 8 per cent supplement, whereas those who

use machines supplied by the employer get only 6 per cent. Extra materials required for the work are normally provided free of charge by the employer, but for homeworkers supplying their own material the cost is either reimbursed separately or included in the overall supplement.

Most agreements do not address the problem of overtime by homeworkers; only the garment and textile industries in Denmark and watchmaking in Switzerland require overtime to be paid at the same rate as to in-house workers. Sunday and public holiday bonuses are payable to homeworkers in the hat-making industry in Germany, and in Italy homeworkers in the leather goods industry are entitled to the same night-work rates as are paid to other workers.

Paid annual leave is provided for in the collective agreements of a number of countries. The entitlement is usually calculated as a percentage of the gross annual wage, based on the total hours worked, or wages earned in a specified period preceding the leave.

The registration of homeworkers is dealt with in collective agreements in Norway, Portugal and Spain. In the glove industry in Norway workers in the enterprise are entitled to know about the employment of homeworkers and their rates of pay and the shop steward must be informed when they are engaged. Again, this is primarily an attempt to protect the factory workers rather than the homeworkers.

Social security for homeworkers is mentioned in agreements in the Netherlands and Sweden. In Sweden it is compulsory for employers to take out insurance for homeworkers and they must also advise them of occupational health and safety risks from using tools, machines and materials supplied by the employer.

In the printing industry in the Netherlands collective agreements give homeworkers priority for employment as regular workers when vacancies occur.

Notes

[1] See ILO: *Conditions of work digest*, Vol. 8, No. 2, 1989, op. cit.

[2] Laws of the Federal Republic of Germany now apply to the former German Democratic Republic under the Unification Agreement.

[3] Council of Europe *The protection of persons working at home*, op. cit., p. 53.

[4] S. Peles: "The legal aspects of home-based telework in Belgium", in *Labour and Society* (Geneva, International Institute for Labour Studies), Jan. 1986, p. 88.

[5] P. Majmudar: "Legal status of home workers: Theoretical contours", in B. B. Patel (ed.): *Problems of home-based workers in India* (New Delhi, Oxford and IBH Publishing Co., 1989), pp. 293-302.

[6] R. K. A. Subrahmanya: "A legislative framework for home workers", ibid., pp. 321-332.

[7] See ILO: *Conditions of Work Digest*, Vol. 9, No. 1, op. cit.

[8] Crummett, op. cit., p. 27.

[9] Council of Europe, *The protection of persons working at home*, op. cit., p. 54.

[10] Commission of the European Communities, *Homeworking in Italy, France and United Kingdom* op. cit., p. 27.

[11] Centre for Working Women: *Women workers: A report documenting sweated labour in the 1980s* (Footscray, Centre for Working Women Cooperative Ltd., 1986), pp. 49-51.

[12] Council of Europe, *The protection of persons working at home*, op. cit., pp. 54-55.

[13] Commission of the European Communities, *Homeworking in Italy, France and Unit Kingdom*, op. cit., p. 28.

[14] See ILO: *Conditions of Work Digest*, Vol. 8, No. 2, 1989, op. cit., p. 155.

[15] Commission of the European Communities, *Homeworking in Italy, France and Unit Kingdom*, op. cit, p. 47.

[16] Council of Europe, *The protection of persons working at home*, op. cit., pp. 63-64.

[17] S. Simitis: "The justification of labour relations", in *Comparative Labor Law* (Philadelphi University of Pennsylvania), Winter 1986, pp. 141-142.

CHAPTER IV

POSITIONS HELD ON HOME WORK

The issues and problems discussed in the preceding chapters constitute major elements in the current debate on home work. In response to them various organizations have formulated their own positions. The views expressed by different employers' and workers' organizations as reflected in previous ILO documents[1] and those expressed at the Meeting of Experts on the Social Protection of Homeworkers,[2] are summarized below.

POSITIONS HELD BY EMPLOYERS' AND WORKERS' ORGANIZATIONS

Employers' organizations

Employers' organizations consider that home work is a form of work that gives people a chance to follow a more flexible working pattern which benefits both employers and workers. On the one hand, employers can resort to homeworking in periods of high workload which cannot be met by the regular workers in the enterprise. On the other hand, home work can help to provide jobs for categories of people who would otherwise be excluded from employment. It is believed to be particularly attractive for women, since it allows them to combine professional work with family responsibilities and earn a supplementary income. Furthermore, since they are not constrained by regular working hours, homeworkers can organize their working time to suit their own convenience.

In general, employers' organizations oppose rigid regulations on the grounds that these might foster an underground home work industry and generally undermine the benefits of home work for both employers and workers. Some consider that legislation to prevent the abuse of homeworkers should exist, but that the solutions adopted should take into account the different situation in each country.

Furthermore, employers' organizations defend their stance that homeworkers are not necessarily employees, that they can be self-employed persons and that a contract of employment between them and a homeworker may not necessarily exist. According to the Danish Employers' Confederation, this distinction must be based on whether the person carrying out the work is subject to the supervision of the company. If this is the case, the person is considered to be a true employee subject to the labour laws.

Workers' organizations

Many trade unions are still opposed to home work and traditionally they have demanded that it be prohibited by law. This negative attitude is based on the fear that home work constitutes a threat to the job security of regular

workers and jeopardizes their established terms and conditions of employment. A number of resolutions adopted by trade unions make this point.[3]

However, a significant number of trade unions have come to recognize that many people are dependent on an income from home work, but they want active trade union policies to limit home work in scope and scale and to seek better protection for homeworkers through increased control and regulation of their working conditions. The International Confederation of Free Trade Unions has called for the adoption of international labour standards and for national legislation in all countries where significant numbers of home-based workers are employed in order to guarantee their basic rights in the areas of working conditions, wages and welfare. The World Federation of Trade Unions has stated that the legal protection of home-based workers should be identical to that of regular wage earners.

Many trade unions view homeworkers as vulnerable workers who are susceptible to exploitation by employers and therefore in need of protection. Their vulnerability stems from their complete dependence on the work given out to them by the employer, the irregularity of work, their isolation and lack of alternative employment opportunities. Those tied to the home because of family responsibilities might be freed from the need to work at home if adequate care facilities were made available in communities.

Because of their isolation, homeworkers are at the same time difficult for the trade unions to organize and, in many cases, are completely unaware of their rights. Their fear of losing their source of income is likely to deter them from claiming better wages and working conditions or from participating in union activities. Trade unions also criticize the attitude of employers, who often consider homeworkers to be self-employed persons, thus excluding them from benefits under the labour and social security laws and shifting some of their operating costs to the homeworker.

Better coverage of homeworkers by existing labour legislation is seen by many trade unions as a prerequisite for improving the conditions of homeworkers and eliminating abuses. Some demand equality of treatment between homeworkers and other workers, others the establishment of a specific legal status for homeworkers. In some countries trade unions have developed their own approaches to the improvements and reforms they consider necessary in national laws and regulations.

Many trade unions criticize the fact that most homeworkers, even in countries with home work legislation, are not considered to be bound by a contract of employment and are consequently excluded from the protection and benefits offered by labour legislation. They also point to their low level of remuneration which they claim is less, in most cases, than the legal minimum wage or than the wages earned by workers inside the enterprise. Employers are sometimes accused of using loopholes in the law or of taking advantage of its non-enforcement.

Better enforcement of legislation has also been singled out by the trade unions as a valuable means of effectively protecting homeworkers. This could be done by increasing the staffing levels of the authorities responsible for the enforcement of the law. Unions also take the view that governments are not doing enough to adequately regulate and control homeworking and to enforce

legislation. They tend to feel that the role of labour inspectorates is very important.

It is generally considered that effective inspection is dependent on the compulsory registration of homeworkers and their employers. In some countries trade unions are in favour of requiring prior authorization in order to limit the extent of home work, but recognize that it is difficult to detect clandestine home work; measures suggested to prevent it include the approval of employment contracts by the works council and raising penalties applicable to employers who evade their legal obligations.

Not all the action called for by trade unions is through legislation. Resolutions adopted by the trade unions in Belgium, Germany and the Netherlands favour collective agreements to fix the working conditions of homeworkers, taking into account the specific nature of home work in each branch of economic activity.

The integration of homeworkers into trade unions is often considered to be a prerequisite for improving their working conditions. In the United Kingdom the 1985 Trades Union Congress (TUC) statement on homeworkers made a comprehensive proposal on the role to be played by trade unions. It recommended that contact with homeworkers should be made through links with local authority homeworking officers and local support groups where these encourage trade union membership. In some countries experiments are being carried out to organize homeworkers into trade unions of their own.

Another proposal put forward by trade unions to improve the situation of homeworkers is the establishment of links between the workers in the enterprise and homeworkers. This objective would be achieved through the participation of homeworkers in workers' representation at enterprise level. If employees in the enterprise are aware of homeworkers' problems it would be easier to negotiate better working conditions for them and would help them to break down their social isolation.

The isolation of homeworkers and the fact that they are employed to carry out a specific task for a limited period are considered to be major obstacles to their career prospects. The Women's Union of the Federation of Dutch Trade Unions (FNV) recommends that homeworkers should be considered as internal candidates in the event of vacancies in the employer's enterprise. Women workers should also be able to improve their labour market position through vocational guidance and training organized by the trade unions.

Views expressed at the Meeting of Experts on the Social Protection of Homeworkers[1]

Definition of home work

It was generally agreed that there was a need to define home work and homeworkers and for the latter to be accepted as employees or given special status. However, there was no clear consensus with regard to use of the widest possible definition that would include all workers regardless of their place of work, as opposed to a narrow definition or one with several subcategories of homeworkers. Some experts emphasized the need for flexibility and the

difficulties of defining home work with strict legal precision, given the wide-ranging differences in legal systems represented among the States Members of the ILO, as well as differing social, economic and political systems and levels of development. Others suggested that different categories or subcategories of homeworkers could be specified, based, for example, on the degree of dependency of the worker on the employer. This would help to identify those who were in a bargaining position to ensure minimum wages and other benefits on their own and those most in need of protection. One expert suggested the need for a checklist of conditions and criteria to identify the "homeworker" in order to extend protection. Others felt that the problem of a precise definition would be overcome if a homeworker were presumed to be an employee unless proved otherwise.

There was general agreement that the need for immediate action was greatest in traditional industries which had the most dangerous conditions for the health of workers and that the focus of the ILO should be on the poorest groups, those with few options for alternative employment and those who were the most exploited. With regard to unpaid family helpers, it was also noted that in many cases these were children who were unconsciously exploited by their own families. It was suggested, however, that the definition only refer to the adult worker.

Trends in homeworking

Several experts were of the view that home work was generally increasing. Even in countries such as the United Kingdom, where there seemed to be a relative reduction of home work in traditional manufacturing in favour of the services sector and telework, a number of factories were partially closing down and increasingly hiring homeworkers. One expert said that home work was growing rapidly in sectors such as the apparel industry where there was international competition. In Italy, the Netherlands and the United States also it was observed that home work generally had been increasing in recent years. It was felt that although this increase might not be of tremendous magnitude, it was still of considerable significance and undermined the labour regulations and conditions of work for regular employees.

Several experts from developing countries also estimated that home work was on the increase, although no accurate data existed on the extent of the phenomenon. One expert believed that in his country, owing to the government policy of encouraging informal-sector activities, the numbers of homeworkers might continue to increase in future. In Kenya it was seen that home work, which had so far been mainly confined to tailoring and woodwork, was now expanding to other activities. Home work was also believed to have increased in Venezuela. In Panama, however, an expert mentioned that the amendments to the labour law, which exempted home work from the labour regulations, did not entail any significant increase in home work.

Some experts considered that the growth of home work needed to be seen in the context of increasing casualization of labour, and particularly its impact on women who had the weakest position in the labour market, being paid less and enjoying less security of employment generally than men. Owing to discrimination and negative government policies, women were at a disadvantage

in their access to the formal labour market. One expert suggested that free choice of employment was the main issue and that government policies should aim to provide women workers with real choices and opportunities through creation of jobs, child-care facilities and policies to eliminate exploitative jobs and practices. The real challenge to understanding the phenomenon of home work was to understand the structure of industries and government policies which had created the conditions encouraging the growth of home work.

One expert drew attention to another emerging trend in home work which was its displacement from industrialized countries to the poorer regions of developing countries. The pattern of deployment of multinational enterprises in developing countries and its impact on home work were also mentioned. It was felt that in addition to addressing specific issues of home work at the country level, consumers of products made by homeworkers in developing countries should be sensitized to the conditions of the workers concerned. Similar questions could also be raised with regard to clandestine employment of immigrant workers in Europe. Methods were suggested to control illegal practices by analysing and comparing actual production with the stated capacity of the exporting industries.

Specifically referring to present and future (long-term) trends, one expert referred to growing evidence of declining rates of remuneration among teleworkers as well as for more traditional types of home work. Some experts stressed the differing conditions and trends in industrialized and developing countries.

Many experts underlined the importance of statistics in grasping and confirming the phenomenon of home work and as a useful tool in policy discussions. Several experts, however, stressed that action in the area of social protection could start with existing knowledge and should not await collection of systematic data.

Advantages and disadvantages of home work

Some discussion on the advantages and disadvantages of home work took place, led by the view that if there were no advantages for both employers and workers the system would not have evolved on such a wide scale.

There was general agreement on the part of all Employer experts and some Government experts that home work offered advantages and opportunities for both employers and workers. They stressed the positive potential for job creation, reduced costs, flexibility, reaching out to rural areas and filling in gaps in employment due to seasonal labour market demand. Some experts believed that home work could offer a valid employment alternative to regular employment for those who, for one reason or another, were obliged to or preferred to stay at home and it could be a temporary solution or provisional means of earning a living for those who had not succeeded in finding regular and secure employment.

Some participants, however, felt that there were more advantages on the side of the employer. Home work provided flexibility and helped enterprises meet fluctuating demands without expanding their production capacity; it was a way of overcoming labour market rigidities and of reducing labour costs.

Some experts felt that the advantages for employers were more evident in sectors characterized by illegal practices. As there were problems of productivity and quality control, employers who worked with efficient factory production would not make use of home work. When employers used homeworkers it was to evade the law and save on social benefits and taxes. Home work formed part of the underground economy. It was also a way of pushing wages down and avoiding trade union pressure.

One expert pointed out that, even where illegal practice did not exist, the laws might not be sufficiently clear. In the Netherlands, for example, it could be considered legal to employ homeworkers for very low wages, as long as homeworkers were not considered to be dependent employees. Employers had a right to use the cheapest form of production. In the service sector also there were many ways of using home work. Over 150 types of home work had been identified in a survey conducted in the Netherlands. The question was whether it was ethical to pay such low wages.

Another expert pointed out that in some cases home work could raise productivity owing to the higher motivation and job satisfaction of the workers concerned. It also meant savings in travel time, meals and clothing. Some would consider a ban on home work as an incursion on personal freedom.

Among the advantages for workers, some experts mentioned the possibility, especially for women, to combine family responsibilities with work. It was also a way of keeping in touch with an employer or a profession during a period when the worker preferred to, or had to, stay at home. Others, however, stressed the lack of genuine choice for many women, because of existing barriers to regular employment and problems of combining work with family responsibilities. They felt that in practice often the only advantage for the homeworker was to have work and some income instead of having no work and no income at all.

Some participants felt that there were advantages for governments also because in situations of high unemployment home work, through the flexibility it offered employers, helped to create jobs. It also stimulated the creation of small enterprises. However, it was necessary to ensure that it was properly remunerated. Women working at home who cared for children and the sick and elderly also saved the government social security costs.

The disadvantages of home work related principally to the situation of women and the fact that very often they had no choice but to accept this type of work. It was, however, necessary to make distinctions between different countries and levels of skills. One expert felt that the discussion concentrated too much on women, whereas handicapped persons and men also performed work at home. It was pointed out, however, that when men did home work it was usually because they chose to and they were in a different category of workers.

Another expert expressed her concern about preserving the dignity of homeworkers. There was so much clandestine home work and these workers were at the lowest level of the labour market. The economy had to abide by rules and employers and workers had to respect the law. Not only was there illegal competition between employers but there was also competition between workers in enterprises and homeworkers. Clandestine home work was also damaging to the State in that it undermined fiscal policies and could have a negative effect on

the national and international economy. Unless the problem of enforcement could be resolved, the usefulness of the law might be doubtful.

Legal protection

There was broad agreement that the lack of a clear definition of "homeworkers" in labour legislation was a major impediment for extending social protection to such workers. Many experts from industrialized countries were of the opinion that the legal framework pertaining to homeworkers should be as broad as possible in order to cover the largest number of workers. Another expert stressed the importance of establishing the principle of comparing conditions and pay of homeworkers to factory workers as the basis for national legislation.

Several experts considered the difficulty of establishing the employment status and employer-employee relationship to be the major impediment to enforcing labour legislation with respect to homeworkers. This was the case in countries where general labour legislation was believed to be applicable to homeworkers, as well as in those where specific legislation on homeworkers existed. In most cases the onus of proof was on homeworkers, and the courts had to decide on whether a contract of employment existed. Several experts thought that the absence of written contracts, the "invisibility" of homeworkers, the unequal power relationship between the employer and the employee, and the lack of information and legal assistance for homeworkers were practical obstacles to establishing the nature of the employment relationship. One expert also referred to the difficulty of pinpointing the employer when a chain of contractors and intermediaries intervened.

Enforcement of legislation was seen as a major difficulty in industrialized countries, while the lack or severe inadequacy of legislation was perceived as the main problem in developing countries. Several experts emphasized the inadequacy of existing mechanisms, especially the limited number of inspectors, to ensure the effective enforcement of legislation applicable to homeworkers. One expert stressed the need to decentralize the legal system and to bring it within reach of homeworkers.

On the types of action to be undertaken various approaches emerged from the discussions. Several experts emphasized the need to introduce new legislation to recognize and protect homeworkers. Others expressed reservations with respect to the need for additional or strict regulations as these might discourage the growth of employment and affect the number of jobs available. One expert suggested instead the establishment of a code of practice. He also thought that the issue should be considered through collective agreements between the social partners and not through state legislation.

With respect to the content of the minimum standards to be promoted, one expert considered that, in spite of diversity of national conditions, a common denominator could be found. Several others emphasized the granting of employee status to the homeworker as the key issue. One expert stressed that the onus of proof should be the responsibility of the employer.

Several experts emphasized the need for a minimum wage for homeworkers. Various ways of establishing the minimum wage for piece-rate workers at

comparable levels with factory workers in the same trade or industry were suggested. One expert thought that facilities provided by homeworkers and the expenses they incurred should be taken into account in establishing an adequate remuneration. Some experts suggested the establishment of tripartite commissions to fix the minimum wages. One expert suggested an intermediary body accepted by all parties to establish criteria for minimum remuneration in specific trades. Another expert expressed reservations about the extension of the national minimum wage to homeworkers. He believed this issue should be left for collective agreements among social partners.

Several experts considered that provisions for paid leave and social security benefits should be among the minimum standards to be observed. Some suggested that homeworkers should also contribute to social security funds in accordance with their income levels. Another drew attention to the fact that in most cases the earnings of homeworkers were so low that it was difficult for them to contribute to funds. One expert from a developing country considered that governments should also consider assisting homeworkers under their welfare and anti-poverty programmes.

There was broad agreement on the necessity of reporting and registration of homeworkers. One expert underlined the importance of transparency to eliminate illegal home work and of having a system of information on the overall employment strategy of enterprises. Another noted, however, that such measures should be tailored to the requirements of specific sectors: extending regulatory requirements to all sectors would be burdensome and could lead to job loss.

One expert suggested the inclusion of provisions against arbitrary dismissal of homeworkers by employers, in particular the need for a tripartite body to decide on the criteria for hiring and firing homeworkers.

A number of experts emphasized the importance of occupational safety and health for homeworkers. There was general agreement on the need to identify, prohibit or regulate hazardous activities and the use of dangerous materials by homeworkers.

Several experts considered the need to regulate child labour and prevent the exploitation of children in home work.

Some experts stressed the need for official policy statements on home work. One emphasized the need to monitor the impact of technological changes on home work.

Freedom of association and collective bargaining

Several speakers referred to the responsibility of trade unions with regard to homeworkers. It was correct to underline the position of homeworkers as the most vulnerable of the working class. Attention was drawn to their isolation, lack of information about their rights and problems in contacting them. It was considered important for trade unions to make an effort to contact homeworkers and to give them information.

Concerning freedom of association and collective bargaining, it was generally agreed that homeworkers should enjoy the right to freedom of association in at least those countries which had ratified the Freedom of

Association and Protection of the Right to Organize Convention, 1948 (No. 87). The problem was not a question of rights, but rather of how to exercise these rights.

The organization or unionization of homeworkers had not taken place widely, especially in developing countries. Recognition of the employment relationship of homeworkers by the government, the courts and the national trade unions had posed a problem. In some sectors such as telework and commercial production the absence of trade union linkages with specific industries had presented problems in identifying and organizing homeworkers. Other constraints in organization or unionization included lack of awareness on the part of homeworkers, their geographical dispersal, their poverty and lack of funds to support organizations, and the sometimes illegal status of alien workers or the clandestine nature of work which made the identification of homeworkers highly risky on a personal level.

According to one expert, a legislative framework was needed in order for homeworkers to bargain. In both developed and developing countries, the right to collective bargaining could prove illusory or simply too risky for those resorting to home work as a last option for survival and those whose status as immigrant workers was possibly illegal or who engaged in clandestine work. In India, for example, homeworkers risked unemployment if their union was not able to bargain from a position of strength. The creation of cooperative production units for alternative employment opportunities had strengthened the bargaining position of homeworkers in some cases, but economic viability was not always ensured.

Programmes

Most speakers also drew attention to action and policies needed in order to improve the effectiveness of current efforts to assist homeworkers. The three elements of any strategy to improve their conditions were registration, legislation and enforcement. Support groups and trade unions could play a complementary role in increasing homeworkers' visibility and educating them about their rights. An Employer expert advocated promoting cooperatives which had the advantage of tax-exempt status and through which a social security system could be developed. Another expert felt that the first step should be the legal recognition of homeworkers as workers; eligibility for other benefits, including vocational training, would automatically follow. Another Employer expert thought, on the other hand, that there was no need for further regulations, which had already constrained growth in the formal sector in Latin America. Priority should instead be given to promoting education, health and vocational training programmes in order to promote self-employment. Trade unions could play a role in supporting such programmes.

Concerning training, it was observed that since homeworkers were home-bound, it was difficult for them to participate in training programmes outside the home. Many ethnic minorities and immigrant workers had very low levels of skill. For retrenched or redundant workers, the issue might be one of retraining for employable skills. Home work could also be used as a strategy for employment creation for these workers.

International standards

With regard to international standard setting, several experts empha the need to examine the extent to which homeworkers had been excluded the application of existing International Labour Conventions by member which had ratified them. One expert observed that such Conventions similar to national laws — if homeworkers were not specifically mentio usually meant that they were excluded. Conventions should be made applicable to homeworkers. Another expert said he was not convinced existing Conventions were not applicable to homeworkers. Most of the ex felt that further scrutiny of existing Conventions was a first step in determ whether a new instrument was needed.

There was general agreement that homeworkers needed protection and the concern for their working conditions was justified. In some cou homeworkers had to go to court to try to prove their employee status. A uni understanding of the employment status of homeworkers would prevent ac interpretations of labour legislation. International guidance on this point w be very useful.

Several Worker experts stated that guidelines aimed at assi governments and employers' and workers' organizations in their effor define the legal status of homeworkers and improving their protection and enforcement of international and national regulations were not enough bec they did not provide for sanctions.

The Worker experts reiterated the need for new international standard home work. They felt that a new Convention was necessary to clearly estab the status of homeworkers as dependent workers and the basic princip equality of treatment between homeworkers and other workers. It should the rights of homeworkers to some official document certifying that they registered workers and to remuneration equal to that of other workers in same sector. A Convention should also establish the priorities for action at national level, such as health and safety regulations and prohibition hazardous activities at home, and should state the obligations of the emplo and the government and the need to respect tripartite agreements.

Worker experts brought up the links between home work and internatio trade as an additional justification for an international instrument. It had b observed that in countries where there was a ban on home work or wh homeworkers organized to demand better conditions, enterprises were resor to subcontractors in developing countries, who in turn handed out work homeworkers. It was therefore necessary to have an internationally agr standard on home work. It would also help trade unions in all countries defend the rights of homeworkers.

One Government expert noted that the existence of home work was a real Even in Africa there were many multinational enterprises and this implications for action at the international level. He proposed that the expe should recommend international standard setting, but that the type instrument should be left to be decided at another level.

All Employer experts expressed the view that there was no need for furt regulation of home work. Examples of countries were given which had adequ

legal protection for homeworkers and where the expansion of clandestine home work was a result of too rigid regulations. They also reiterated the belief that home work had advantages for employers and workers, that it resulted from a demand for this type of work and that it should be promoted to help create employment. Foreign investment could be attracted to developing countries if regulations were more flexible. There was also a need to promote training, retraining of workers, credit schemes and associations of homeworkers. The Employer experts also felt that it was the responsibility of workers' and employers' organizations to push for the enforcement of legal provisions.

One Government expert supported the view that there was no need for a new international standard on home work, but was in favour of international guidelines which would assist in the enforcement of legislation. Another Government expert felt it was premature to propose standard-setting activities and preferred a further analysis of the applicability of existing standards to homeworkers. Two other Government experts, however, felt that there was a need for an international standard on the subject.

In view of the fact that there was no agreement on the need for international regulation of home work, some experts attempted to put forward basic principles on which there could be consensus. Such basic principles were the need for protection for homeworkers, minimum rights of homeworkers to a decent living and the need to examine the adequacy of national legislation and problems of enforcement.

A Worker expert stated that an international Convention on homeworkers was already overdue. Trade unions were dominated by industrial workers and it was time to draw in the masses of workers in the informal sector. Homeworkers were not demanding charity but their rightful place in the labour movement. They should not be treated as self-employed. A Convention would be an important step to accept them as wage earners. She recalled that the ICFTU had unanimously adopted a resolution calling for the recognition of homeworkers and for setting standards on home work. She also indicated that ILO instruments could have a promotional character which allowed ratifying countries to pursue the objectives within time-limits and by methods that were in accordance with national circumstances.

Other Worker experts supported this view and urged Employer experts to reconsider their standpoint and give homeworkers a status enabling them to bargain in the labour market. International competition forced homeworkers to accept the lowest wages available. It was important to establish international rules. Many women workers in developing countries desperately needed an international Convention. Another expert felt that the import of goods whose production relied on the labour of homeworkers should be subject to control, so as to prevent labour exploitation and to ensure respect for human rights and International Labour Conventions.

Notes

[1] See ILO: *Conditions of Work Digest*, Vol. 8, No. 2, op. cit., pp. 161-213.

[2] See ILO: *Social protection of homeworkers*, op. cit.

[3] For examples of such resolutions and other statements by trade unions, see ibid., pp. 26-31.

[4] ibid., pp. 73-89.

CHAPTER V

ACTION PROGRAMMES FOR THE BENEFIT OF HOMEWORKERS

In response to the perceived shortcomings in efforts to regulate and control homeworking through the more formal means of legislation and collective agreements, trade unions and others, mainly non-governmental organizations, have developed an alternative strategy. This is to overcome some of the problems through a range of programmes that provide homeworkers with assistance and support. Such programmes are still relatively few and their impact on homeworkers as a whole is limited but the successes achieved in both developing and industrialized countries are encouraging.

This chapter reviews the main patterns of intervention and gives examples from different countries, highlighting the origins of the programmes, their development and achievements.[1]

Most programmes have similar objectives in that they aim to protect homeworkers, break their isolation and improve their socio-economic status. However, the means of intervention used to achieve these objectives have taken a variety of forms. While the most comprehensive programmes tackle the question from many angles and combine a range of activities to address the problems faced by homeworkers, the following main categories can be distinguished:

(a) large-scale information campaigns directed mainly at homeworkers, often in several languages to reach ethnic minorities and immigrants, to help them understand and defend their rights;

(b) organization of homeworkers to increase their bargaining power, eliminate dependence on middlemen and negotiate for improved terms of employment, either through an existing trade union or by creating separate homeworkers' organizations or cooperatives;

(c) establishment of centres or networks to help homeworkers break their isolation and to provide them with assistance and services, such as legal advice and support, training and upgrading of skills, health services, etc.

These categories of programmes are not mutually exclusive and in fact some of the more successful programmes have adopted them simultaneously or in successive stages.

Information campaigns

In countries where legislation on home work exists, the workers concerned may not be fully aware of the terms and conditions of employment to which they are entitled. One of the main objectives of information campaigns is to reach out

to the different communities of homeworkers, inform them of their rights and provide them with assistance in filing claims with their employers.

A good example of an information campaign is the one organized by the Textile, Clothing and Footwear Union (formerly the Clothing and Allied Trades Union (CATU)) of Australia. The National Outwork Campaign consisted of two parts: (1) an industrial campaign which in 1987 succeeded in winning industrial award entitlements for homeworkers that are comparable with those of factory workers; and (2) a national information campaign to provide homeworkers with information about their entitlements under the new award provisions. The number of clothing workers working in their homes was estimated at 60,000. At the height of the campaign, the union engaged 36 people to provide information across all states in Australia through print and electronic media.

In the state of Victoria the government worked closely with the union and provided a multilingual "hot line" for homeworkers seeking further information on their rights and on the campaign. Approximately 60,000 leaflets in 14 different languages were printed and distributed widely. This was supplemented by meetings with homeworkers organized by language groups and locations, ethnic radio announcements and interviews and assistance to homeworkers making claims from their employers. During a 12-month period 6,000 homeworkers contacted the union. Given the success of this strategy in getting information to homeworkers and to the community at large, a second campaign was launched in 1990 and a third one is planned for 1994.

Other programmes have organized information campaigns on a lesser scale as a component of a wider programme. For example, in Canada a public information campaign was organized by the Toronto District Council of the International Ladies' Garment Workers' Union (ILGWU) to publicize the results of a study of garment homeworkers carried out in Toronto in 1991 and to rally political support for major legislative reforms before proceeding with the organization of homeworkers. This campaign involved publishing articles about homeworking in a popular labour magazine distributed throughout the country, conferences, workshops, postcard mailings to employers, and press conferences which were successful in bringing media and public attention to the existence of homeworkers and their working conditions. A special "hot line" to provide homeworkers with information on their rights was also set up in the ILGWU.

In the United Kingdom campaigns to raise public awareness, to reach homeworkers and to lobby for a change in the law have formed part of the overall strategy to improve the conditions of homeworkers. The Leicester Outwork Campaign group produces "fact packs" giving basic legal and other information of concern to homeworkers and distributes information leaflets in four languages to ethnic minorities, as well as a regular newsletter. The West Yorkshire project publishes *Outworker News* three times a year in six languages and prints information on legal cases, lobbying work, homeworkers' letters and stories, as well as international news on homeworking.

Organizing homeworkers

The isolation and weak bargaining position of homeworkers are perhaps t main causes of their vulnerability. Several programmes address this problem encouraging homeworkers to join forces to defend their rights and comb exploitative practices. By uniting they can negotiate directly with employe eliminate intermediaries, or even replace the employers by becomi independent producers and marketing their products through their ow cooperatives.

One of the most successful examples of organizing homeworkers is that the Self-Employed Women's Association (SEWA) in India. It grew out of t Textile Labour Association (TLA), India's oldest and largest union of texti workers, founded in 1920. Following a survey of women tailors conducted probe complaints of exploitation by contractors, the women's wing of the TL called a meeting to discuss how these women could organize. As a result SEW was formed. Getting official recognition as a trade union posed a problem. Th Labour Department refused to register SEWA because the women wer considered self-employed and therefore had no employer to negotiate wit However, it was argued that the priority of the union was the unity of th workers and in April 1972 SEWA was registered as a trade union. As from earl 1986 the ILO assisted SEWA through technical cooperation projects (see als Chapter VI).

SEWA's total membership, now around 40,000, consists of small-scal vendors, small traders and hawkers; home-based producers; and labourer selling their services or their labour. Of all these the home-based producers wer found to be the most exploited and the lowest paid.

The approach used by SEWA to organize homeworkers was comprehensive one, taking into account the needs of the workers to be fully integrated into society at all levels, i.e. economically, socially and physically. T achieve this a complex strategy was used which consisted of:

(a) worker education classes, meetings and general campaigning among homeworkers to make them aware of the need to join the union and demand their rights under the law, including the right to take direct action;

(b) an advocacy campaign to make homeworkers more visible, enabling them to obtain recognition and protection under the law;

(c) combating exploitation by demanding better wages and conditions of employment or by setting up cooperatives thus making the workers owners of the means of production; and

(d) creating a contributory social security system by which homeworkers may receive health care, child-care facilities, old-age pensions and crisis insurance.

One of the first struggles of SEWA was for homeworkers to be covered by the Minimum Wages Act. As the Government was reluctant to take action SEWA organized a procession of more than 1,000 women to deliver a memorandum with their demands to the Labour Commissioner. The demands were then passed to the Minimum Wages Committee, a tripartite body, and under continued pressure by the women finally passed into legislation.

However, getting a law passed is only a small part of the battle. Implementation proved difficult because most of the homeworkers did not have identity cards or work books. As they did not appear on any register, they were unknown to labour inspectors. The strategy developed by SEWA was to notify the labour inspectors of when and where homeworkers would collect their raw materials and deliver finished goods. Thus the labour inspectors were able to record the workers' statements and register them.

This then permitted negotiation for minimum wages. As employers in the clothing industry were reluctant to pay even 50 per cent of the minimum wage, negotiations broke down and several workers were dismissed. For two years SEWA fought the case of the dismissed workers in court and finally, by decision of the High Court, the case was resolved and the workers got back their jobs and back pay. The employers then reopened negotiations with SEWA and a higher wage was obtained. Homeworkers regained confidence and SEWA now has a membership of 2,500 garment workers.

Other textile workers making quilts and small garments out of waste cloth were organized into a cooperative and a shop was opened to market their products. To diversify these and improve their quality homeworkers were given special training. The wages paid to the 400 women members of the cooperative were about 70 per cent higher than the market rate. This has had repercussion on the wages paid to other homeworkers employed directly by employers. Every time the cooperative raises wages, the employers are forced to follow suit. Now the rates paid by the cooperative remain about 25 per cent higher than those paid to other homeworkers in the area.

Women workers making *bidi* (cigarettes) at home are or have been among the most exploited of all homeworkers. A major issue taken up by SEWA was to implement the 1985 Supreme Court judgment, which made the Employees' Provident Fund Act applicable to *bidi* workers. In three years over 2,000 enrolled as members in SEWA. With the help of SEWA some of them formed cooperatives, including a savings and credit cooperative which today has 1,200 members and provides loans to meet their needs.

In Lucknow, known for its *chikan* and *zari* (embroidery) work, SEWA found that women workers were receiving well below the minimum wage and about half of what male workers were earning. SEWA Lucknow organized the workers and helped them file complaints with the Labour Department under the Equal Remuneration Act. It also conducted training courses to upgrade their embroidery skills, and a well-known designer offered her services. Demand for these fashionable products grew in the cities and *chikan* workers flooded to work with SEWA, thereby pushing up the wage rate of other workers also. Over a 1,000 women participate in a savings and credit group. SEWA Lucknow now gives employment to 4,000 women and has a turnover of nearly 10 million rupees a year.

At the national level SEWA has organized seminars on legal issues which have led to the drafting of a Bill for a Home-based Workers' Protection and Welfare Act. This Bill is pending in Parliament. SEWA has also been active in rallying support from other trade unions throughout the country. Once opposed to the very idea of home work, these unions are now supportive and some of the national federations have started to organize homeworkers themselves.

In the future SEWA is planning to reach out to rural and agricultural homeworkers, starting with research into their working conditions, production relationships, etc. It is also intending to promote alternative production systems through cooperatives and expand the social security system for homeworkers, including health insurance, crisis insurance, child care and housing.

There are many other women's organizations in India which organize homeworkers. The Annapurna Mahila Mandal, for example, provides credit to women in such trades as sewing, handicrafts, supply of meals, *bidi* rolling, grinding of spices and making of *papad* dough. The National Union of Working Women also groups women under home-based occupations which have common problems.[2]

Some of the oldest organizations of homeworkers which have served as models for other countries are to be found in Japan. Under Japanese law homeworkers are considered as independent workers. They do not have the right to organize or bargain collectively. They only have a general right to associate under the Constitution. Even so, there are many unions of homeworkers located in the large cities. Most of them were established about 40 years ago and many have joined the General Confederation of All Japan Homeworkers' Unions which was founded in 1960. Under pressure from the Confederation a division of home work affairs was set up within the Labour Bureau in 1973.

One of the largest organizations is the Council of Footwear Workers in Tokyo which includes four unions with about 2,000 homeworkers. Despite the lack of legal backing, these unions have in fact negotiated with employers' organizations and achieved improvements in wages and working conditions over the last 40 years. However, their most important achievements have been in the area of taxation, where they have obtained the right for homeworkers to pay income tax on their earnings rather than business tax. In the area of social security coverage the unions have obtained contributions from the municipal government to take the place of employer contributions on behalf of homeworkers (not obligatory under the law). The four unions have also collectively joined a national insurance cooperative which provides many social benefits. A mutual benefit fund for sickness and injury for all homeworkers and small manufacturers living in Tokyo was set up in 1988. Efforts continue to obtain entitlement to holidays with pay and benefits during absence from work due to sickness or accident.

The Homeworkers' Friendship Associations in Kyoto were founded in 1951. After the war years many people were in need of work and home work was much sought after. It was distributed through public home work placement centres, which had been in operation since the beginning of the century. When it was decided to close these down in 1956, the informal homeworking groups that had formed were invited to form associations. Each group had to have a minimum of 30 members in order to join. At its peak there were 25 groups with a total of about 2,000 members. Today only 11 groups remain. However, other cities under the Kyoto prefecture have formed similar associations, of which 23 are left today.

Each of these associations has an office which serves as a centre where homeworkers receive their raw materials, tools and training. The centres check the finished products before delivering them to the employers, thus ensuring

good quality, keep records and do the bookkeeping. The leaders and selected homeworkers also negotiate the rates of pay and the terms of collective contracts between the association and employers. Often employers are willing to pay higher rates because it is easier to deal with an association which takes care of all administrative matters and carries out quality control than to deal with individual homeworkers. Homeworkers pay 14 per cent of their earnings to the Association to meet operating costs. This is reasonable considering that the profit margin of commercial intermediaries is more than 20 per cent. These associations also play an important role as neighbourhood centres where homeworkers and their families can meet and as pressure groups for legislative reform.

A recent initiative to organize homeworkers was taken by the Ontario District Council of the ILGWU in Canada. To start with the ILGWU investigated the working conditions of workers in the Chinese community sewing clothing at home. A strategy to organize them was developed and the Homeworkers' Association (HWA) of Toronto was formed in January 1992. It is supported by the ILGWU in New York and receives some financial contributions from the provincial and federal governments.

The HWA has set up an office where homeworkers can drop in for help and where social events are organized. It offers counselling and legal advice from a volunteer lawyer, provides English-language classes and organizes a wide range of informal seminars on various issues. It also issues a Chinese-language newsletter. In 1993 the HWA introduced a health insurance benefit plan.

A coalition for Fair Wages and Working Conditions for Homeworkers, made up of a variety of community organizations, women's organizations and church groups, has also been founded. Its role is to create the political climate for legislative reform, which would include the right for homeworkers to join unions. The aim is to transform the HWA into a full-fledged union and ultimately to negotiate collective agreements for homeworkers. In December 1991 the Coalition sponsored a legislative lobby with three political parties. It also puts pressure on well-known corporations sensitive to public opinion to improve the conditions of homeworkers. The government of Ontario has not yet introduced legislative amendments for homeworkers, but a Bill was expected to be tabled in autumn 1993.

For the time being the HWA still concentrates mainly on the Chinese and Vietnamese homeworkers working in the Toronto area. The goal is to expand the HWA to other ethnic and cultural groups and to other occupations. However, because of financial limitations progress has been slow.

In the United States several examples can be found of programmes where homeworkers have joined forces to create organizations for mainly economic reasons. One of the best-known examples is that of the Watermark Association of Artisans which is located in rural, poverty-stricken northeastern North Carolina.

Watermark is a cooperative owned by its over 700 members, of which 97 per cent are women. The area they live in is isolated, with no major highways, railway lines, or airports. Much of the land has a low yield and the many people living on farms cannot make enough income from farming to support their families. Watermark was started in 1978 as a means of alternative income

generation by a group of women who had some craft skills. The cooperative was started with the assistance of the United States Department of Agriculture and the North Carolina Fund for Rural Development.

Watermark is a product development and marketing agent for its members and has developed into a self-sustaining business. Sales take place at wholesale marts in major trade centres and through wholesale catalogues produced by the cooperative, which performs all business functions and assumes most of the risks related to damaged products, bankruptcies, etc. It can handle large orders without putting strain on individual homeworkers and allows them to benefit from bulk buying of raw materials and supplies.

The main products are country crafts consisting of traditional and contemporary folk art and handcrafted gift accessories. About 70 per cent of the persons becoming members go through craft skills classes. Once accepted by the Screening and Jurying Committee, they buy a share of stock and can begin receiving orders for products. The cooperative only gives out work for which purchase orders have been received.

More than half of the members are hobbyists who produce only a limited number of items which they sell through the cooperatives retail shop. Only about 100 members make a substantial supplementary or total income selling wholesale through the cooperative However, owing to worsening economic conditions in the area, most recent incoming members have pressing needs to make a dependable monthly income which is often their sole income source.

The amount each member is paid for a product is determined when the product is developed. The prototype product is given to three members who are known to work at different rates (slow worker, average, and fast). Each member makes several prototypes of the particular product; each performs a cost analysis keeping records on cost of materials, working time, production shortcuts, etc. The Product Development staff then examines the products and the records and an average cost is derived and agreed upon by all persons concerned. The cooperative takes only enough money to cover its operating expenses. The minimum wage members are able to achieve far exceeds local wages.

Watermark's strategy has been successful in making an impact on rural economic development. Beyond this Watermark has had an impact on its members, who have gained self-confidence and assertiveness and are playing more active roles in the lives of their families and communities. Watermark's impact has also been felt far beyond the local area as it has grown to be one of the largest and most successful craft cooperatives in the United States. Its economic development strategy has been designated one of the top ten in the country and international assistance agencies have sent representatives from many countries to study the Watermark model.

A similar economic development initiative was started in 1991 in rural central and eastern West Virginia in an area, dominated by the Appalachian mountain range, plagued by persistent conditions of rural unemployment, poverty, and lack of human and economic resources for many years. Appalachian Knitwear (AK) is an enterprise development project of the Center for Economic Options (CEO) (formerly Women and Employment). The development costs of the project came from the West Virginia Development

Office, a state government agency, from Esprit Corporation (a private company and chief buyer of the products) and private foundation grants. The objectives of the project are to provide full or part-time employment to rural women through self-employment and home-based manufacturing and in the long term to ensure equal participation of women in economic leadership, community development and gainful employment.

AK is a network of women who work at home and produce sweaters on knitting machines through a process called handlooming. Each of the knitters is an individual entrepreneur, using the network as a broker to sell her products. AK contracts for all production services with certified production administrators and trained knitters and seamers. Knitters must own a knitting machine or have one available for their use, have sample work approved, and in some cases, undergo training for each order. The rate of hourly pay was determined by the knitters themselves by researching the market rate in a trade magazine for handloomers.

In the future AK plans to explore the wholesale market, which would provide a larger margin of profit, and needs to train 140 people over the next four years. The state government has agreed to use federal funds from the Job Training Partnership Act to train workers as long as the broker can demonstrate a market for their products. Considering the limited opportunities available to rural women in Appalachia, the AK is believed to have real potential for economic revitalization in the area. It provides women with non-exploitative options and gives them a chance to stay in their home community and work in comfort as need and desire dictate.

The Women of Color Quilters' Network is another cooperative of individuals who stimulate and support each other's creativity through conversation, workshops, organization-sponsored shows of members' works, and bypassing middlemen to sell their art. It serves as a broker for its members' products. It is self-sustaining and has to date received no outside funding from grants or loans. Membership is renewable each year and members contribute 10 per cent of total sales to the Network which is used for advertising in trade journals, catalogues and directories and to subscribe to membership in larger associations.

The membership consists of mainly American women who are considered independent artists and who by banding together have eliminated dealers who have traditionally undermined women, minorities, and homeworkers in general. The foremost benefit is freedom from manipulation and validation of one's craft. Besides generating income for themselves, they have established a new sense of aesthetic value for the textile arts produced by African Americans and other people of colour. Membership has varied between 600 and 800 and has expanded to other parts of the world.

Contractual arrangements between the Network and individual artists are made on an individual basis, taking account of the value of the quilt and the interest of the client. Members have the right to approve any sale and price and payment is made directly to the member. Some members are hobbyists, but others are professionals who make textile arts a profitable career option and are able to sustain themselves and their families by their craft. Ninety per cent of the members are said to be female heads of households.

Under the regulations set by the United States Department of Labor they are classified as "independent contractors" and are subject to self-employment taxes. However, they get assistance to deal with tax matters through the extension services of the United States Department of Agriculture.

Many other homeworker organizations exist. In some European countries homeworkers are organized into industrial cooperatives. In Poland, for instance, more than 50,000 disabled homeworkers were organized in this way in 1980. In Switzerland a National Home Work Office provides assistance to homeworkers and coordinates supply and demand with their employers.

Support centres and networks

Once homeworkers are organized more permanent structures in the form of centres and networks are needed. Some examples of such structures were already mentioned under the section on organizing homeworkers, i.e. the textile workers, *bidi* workers and embroidery workers organized into cooperatives by SEWA in India, the Homeworkers' Friendship Associations of Kyoto, Japan, and the three cooperatives of independent artisans working at home in the United States.

While in some cases organization and consolidation continue simultaneously, one supporting the other, some programmes clearly follow steps in their development.

The PATAMABA Action Programme for Homeworkers' Empowerment in the Philippines is an example of how a programme may develop. It started in the early 1980s with a study by a group of women researchers of homeworkers belonging to the Association of the New Filipina (KaBaPa), a grassroots organization composed mainly of rural women and founded in 1975. The data of the study, supported by awareness-raising activities, served as an entry point for organizing. In October 1989 homeworkers from nine provinces formed an ad hoc coordinating committee to spearhead organizing efforts for a national network (PATAMABA).

Start-up activities, which included the training of organizers from among the homeworkers, development and dissemination of information and education materials and actual organizing were supported by the ILO Subregional Rural Women Homeworkers' Project (See Chapter VI). After undergoing training, homeworker organizers fanned out to the various provinces for awareness-raising and organizing activities. Their efforts culminated in the holding of the founding Congress in May 1991, which approved its by-laws as well as its five-year action plan and elected a ten-member National Coordinating Committee.

The next step was to consolidate the national network through the establishment of formal structures and designation of full-time grassroots organizers, managers and administrators. A homeworkers' centre large enough to serve as an office and a training facility and to accommodate a showroom for products was set up. At the same time the network continued its education, training, research and promotion activities. Having assisted in the setting up of homeworkers' cooperatives and enterprises, PATAMABA negotiated with potential buyers to ensure markets for the products.

PATAMABA has now become a full-fledged independent organization with a membership of 3,000 subcontractees or self-employed home-based workers working for the national and export markets. The mainly agricultural homeworkers remained within KaBaPa but are now organized into its direct affiliate called KASAMBAHAY. The number of homeworkers reached so far is still very small, considering that there are an estimated 5 to 7 million of them in the Philippines. However, the demonstration effect is very positive, and in future PATAMABA aims to strengthen, consolidate and expand the national network, provide homeworkers with additional services for their welfare and social protection, and enhance the productivity and sustainability of their projects.

In the Netherlands, support centres for homeworkers were set up by the Women's Union. The Women's Union, founded in 1948, is one of 19 trade unions affiliated to the Netherlands Trade Unions Confederation (FNV). In 1982 the Union gained the right to vote within the FNV, but is not authorized to enter into collective bargaining agreements, which is the task of the various industrial sector unions.

The Women's Union has been working to improve the position of homeworkers for over ten years. The first centre in Hengelo (eastern Netherlands) was set up in 1985. Later on three more centres were set up in other regions with the help of public subsidies. In all four regions extensive research into home work preceded and accompanied the establishment of the support centres. Apart from the enormous need for information on a wide range of matters, there were a great many requests for help in securing work, including home work.

The support centres keep up-to-date information on companies and employers so as to be able to reply to specific questions from homeworkers. Homeworkers receive information about labour agreements, wages, irregular work and how to negotiate terms of employment with the employer. Those who join the Women's Union can count on legal advice and assistance from the FNV. A number of home work cases are currently under appeal. From 1985 to 1992 the support centres made contact with over 10,000 homeworkers (male and female).

Several other places in the Netherlands attempted to get home work support centres off the ground but these initiatives lapsed for lack of funding. However, the Hengelo and Tilburg support centres, despite ups and downs, were still operational in September 1993.

At the same time the Women's Union spent almost a year negotiating funding for the three-year Home Work Integration Project (1992-95) which is jointly financed by the Government, the Central Employment Board and three large FNV unions. The aim of this project is to ensure that homeworkers are better integrated into the labour market through employment policies and legislation. The FNV has used its influence with members of parliament and within advisory bodies to improve the position of homeworkers. It is partly due to FNV efforts that a Bill designed to bring home work within the Working Conditions Act is now being drawn up, a process that has been subject to continual delays because of its low political priority.

A large national network of homeworker organizations has been developed

in the United Kingdom, where concern for the conditions of homeworkers has been the subject of public debate for many years. In the 1970s the main focus of activity was lobbying for legal change, to bring in a Homeworkers' Protection Bill, which would give homeworkers the same protection as others. A Bill was presented to Parliament but failed to pass through before the change of government in 1979.

By the 1980s the emphasis had changed to local groups working directly with homeworkers. The first of these to be set up was the Leicester Outwork Campaign, which grew out of a combination of community work, women's movement and trade union concern. It established itself as the most important homeworking group outside London. At the same time, some important research was published. The Greater London Council included home work in its economic strategy and supported both local independent projects and homeworking officers. Trade unions have generally supported local projects and in some cases have tried to set up branches exclusively for homeworkers.

The National Group on Homeworking was set up in 1984 as a result of a conference organized by the Greater London Council. The same conference adopted a Charter which is still the main platform of the National Group. The Charter makes a range of demands, tackling home work directly through employment legislation and indirectly through improved child care and combating racist and sexist practices. The National Group on Homeworking has worked effectively as a network within which diverse groups and individuals can exchange experiences of their local work and acts as the coordinating body through which the local projects can lobby at the national level.

The local projects established in ten different regions throughout the United Kingdom provide advice and support to homeworkers in their area of work, raise awareness of local authorities and organizations on home work issues, fight test legal cases to establish rights for homeworkers, and set up training schemes for homeworkers. More recently some of the local projects have been providing homeworkers with equipment to make their jobs safer and healthier (chairs to improve posture, lamps for better lighting, etc.). Funding is increasingly being tied to encouraging homeworkers to move to other forms of employment, often through training, or to improve their situation through genuine self-employment, either a one-person small business or cooperatives or community businesses.

The aims of the National Group reflect those of the local projects, with particular emphasis on lobbying for a change in the law to give homeworkers the same rights as employees, and liaison with other organizations to raise the issue of homeworking and general demands for equal opportunities and better training or educational facilities for homeworkers. The main source of funding for local projects and the National Group has been local authorities, but some indirect funding through special funds for minority groups has been received from the Government. More recently different sources, such as voluntary organizations, church groups and European funding, have had to be tapped. The lack of secure funding continues to be a problem in planning and developing national work, as well as in some local projects.

The National Group has also been active in creating links with homeworking groups in other countries. Contacts were made with the European Parliament

and the Working Group on Homeworking organized by the European Commission with the aim of developing a network of active homeworking organizations within the European Union. Exchange of experience at the international level has been an important element in creating links with other women in the global economy. An international network could help to share information and develop an understanding of the forces that are shaping homeworkers' work and lives, as well as formulating ideas for the solutions of their problems.

Future prospects

While the types of programmes described in this chapter may not necessarily be the most representative of the countries concerned, they are good examples of what can be done to assist homeworkers. There are several observations that can be made concerning their successes and limitations.

Except for large information campaigns as organized in Australia, most programmes are limited in scope. They usually concentrate on only a very specific target group. However, SEWA in India is expanding rapidly and its activities cover many different groups of homeworkers. Its reputation has been well established not only in India but in international circles too. PATAMABA in the Philippines has good potential to expand rapidly in the future. Both the latter projects have been assisted by ILO technical cooperation projects. One of their main objectives is to create viable self-sustaining activities.

Financial problems often limit the expansion of programmes. This has been the case in Canada, where organizing homeworkers has been slowed down owing to shortage of funds; in the Netherlands, where several support centres have had to be shut down; and in the United Kingdom, where the National Group on Homeworking has faced staffing problems. Efforts to increase support from national authorities and the social partners, through an active national policy on home work, would appear to be necessary if more homeworkers are to be reached through programmes.

For many organizations of homeworkers there is a legal problem of being formally recognized as trade unions and having the right to bargain collectively. This is the case in Canada, Japan, the Netherlands and many other countries. Some programmes have overcome the problems of formal recognition and finances by forming successful commercial enterprises or cooperatives. By marketing the goods they produce, homeworkers can obtain better rewards for their work and avoid unfair treatment. However, there may still be a need for other types of assistance, including training and credit facilities, and social benefits such as social security, health insurance, maternity protection, etc. The need for social protection even in such successful enterprises has not been eliminated entirely.

One of the lessons learned from organizing homeworkers in India and the Philippines is that a comprehensive approach needs to be developed to ensure that, when homeworkers struggle for their rights, they have alternative sources of income in case employers or subcontractors withdraw job orders. Furthermore, homeworkers need to create understanding and unity on an industrial and territorial basis so that subcontractors cannot play off one group against another or transfer job orders from one village to the next.

It is important to develop programmes and organizations not only regional and national levels, but at the international level as well. coordination is also needed among national and international networks s the organizing groups are not themselves isolated but can benefit from coll experience and success elsewhere.

Existing programmes are still limited in numbers and judged agains reasonable estimate of the world-wide homeworking population their impact is small. But some outstanding examples exist which can be replicat a wider scale. Extending social protection to homeworkers through progra is a recently developed strategy which has proven its merits as a complem more formal means of action.

Notes

[1] Th[illegible]mation in this chapter is based on case studies prepared for a forthcomin publication on action programmes for the social protection of homeworkers. See also *Conditions of work digest*, Vol. 8, No. 2, op. cit., pp. 217-239.

[2] For other examples of programmes see ILO: *Conditions of work digest*, Vol. 8, No. 2, o

CHAPTER VI

THE ILO AND HOME WORK

This chapter reviews ILO activities undertaken so far in response to the emerging international concern with the phenomenon of home work. In view of the many statements made at different international meetings calling for ILO action, existing international labour standards and their relevance to home work are examined. Other work of the ILO, notably as regards the collection and dissemination of information and technical cooperation, has contributed to a better understanding of the problems of homeworkers and possible means of providing them with better protection. This work includes the convening of the Meeting of Experts on the Social Protection of Homeworkers.

CALLS FOR ACTION AT THE INTERNATIONAL LEVEL

In recent years there have been several calls on the International Labour Organization to give increased attention to the social protection of homeworkers.

At its 70th Session (1984) in its conclusions concerning future action in the field of working conditions and environment, the International Labour Conference placed emphasis on the need for devising approaches to extend effective protection to homeworkers. In 1985 the conclusions appended to the resolution on equal opportunities and equal treatment for men and women in employment adopted by the Conference at its 71th Session also invited the Office to consider home work as a possible new item for future standard setting. The conclusions concerning rural employment promotion, adopted by the Conference at its 75th Session (1988), called on the ILO to combine research, advisory services and technical cooperation to strengthen its assistance to member States among other things in the design of programmes aimed at documenting and improving the legal, economic and social conditions of home-based workers.

At its 77th Session (1990) the Conference adopted conclusions concerning the promotion of self-employment, which called on the ILO to explore the law and practice with respect to the comparative coverage in national and international labour standards and regulations of the self-employed, the nominal self-employed, home-based workers and wage employees in both the self-employment and regular employment sectors. This was seen as an essential step towards promoting the application of labour standards to all workers, and would also allow a determination of whether additional standard-setting was appropriate.

The conclusions of ILO industrial committees and of technical tripartite meetings also mention homeworkers as a target group for future ILO action. The

12th Session of the Textiles Committee, meeting in 1991, adopted a resolution (No. 99) concerning industrial home work in the textile industry, inviting the Governing Body of the ILO:

(1) to call on all ILO member States:

(a) to implement adequate measures with a view to regulating home work, with the objective of establishing a legal status for homeworkers;

(b) with the active participation of employers' and workers' organizations, to put special emphasis on the elimination of abuses that occur in connection with home work;

(2) to request the Director-General:

(a) to prepare a comparative study on the situation of homeworkers and all other workers in the textile industry;

(b) to produce proposals for a more effective means of establishing the true extent of home working, particularly in the textile industry;

(c) to liaise with member States and employers' and workers' organizations to facilitate tripartite approaches to develop and implement programmes to assist homeworkers in the textile industry to adopt safe work practices and provide healthier working and living conditions, for example by seconding selected workers from the textile industry for short periods of time to travel in homeworking communities as advisors on safe work practices and healthy work procedures;

(d) to encourage and foster the creation of facilities, including cooperative initiatives, that would help homeworkers.

The Third Tripartite Technical Meeting for the Clothing Industry (1987) adopted a resolution (No. 27) concerning industrial home work in the clothing industry, in which it invites the Governing Body of the ILO:

(1) to call on all member States where home work is permitted to implement adequate measures with a view to effectively regulating home work with the objective of establishing the legal status of homeworkers in line with conditions in the clothing industry;

(2) to call on all member States to put special emphasis in this connection, and with the active participation of employers' and workers' organizations, on the elimination of abuses that may occur in connection with home work;

(3) to request the Director-General to contribute to the further identification and assessment of the specific problems and conditions of homeworkers in the clothing industry by preparing a comparative study on the situation of homeworkers and factory workers in this regard and by convening the envisaged Tripartite Meeting of Experts on Home Work as soon as possible.

Tripartite Technical Meetings for the Leather and Footwear Industry have repeatedly called for action on the subject of home work. In 1979 the Second Meeting, in its resolution (No. 13) concerning industrial home work, invited the Governing Body of the International Labour Office to request member States to take measures to regulate the conditions of industrial home work and establish the necessary controls over all forms of industrial home work. The Third Meeting in 1985, in its resolution (No. 22) concerning future ILO action in the leather and footwear industry, requested a meeting of experts on the question of home work in that industry. In 1992 the Fourth Meeting adopted a resolution (No. 26) concerning future ILO action in the field of the leather and footwear industry inviting the Governing Body of the ILO to request the

Director-General to include the question of home work in the leather and footwear industry in the future programme of the Organization.

The concern over the social protection of homeworkers is shared by other international and regional organizations. The Council of Europe set up a special Study Group, in its 1987-88 programme, to carry out a study on the protection of persons working at home (outworkers). The Group made proposals regarding the concepts and principles that should be included in national law and practice. The Steering Committee on Employment and Labour considered at its meeting in April 1989 whether to elaborate a Recommendation for adoption by the Committee of Ministers of the 23 member States, but decided to suspend this question because a unanimous vote, which is necessary for the adoption of such an instrument, could not be ensured at the time.

The Commission of the European Communities has undertaken a number of country studies and has also commissioned research from other institutions, especially on modern forms of home work. It considers the social and legal protection of homeworkers a "contemporaneous requirement which will not recede in the immediate future". In May 1990 the Commission's Equal Opportunity Unit supported the holding of an international conference on home work to make recommendations to improve the legislation for homeworkers and at the beginning of 1992 set up a working group on home work. A report[1] prepared by an ad hoc working group of the Commission on the different aspects of home work in the member States of the European Union was to be examined in a seminar to be held in March 1994 to discuss measures to be taken to strengthen the position of homeworkers in the labour market.

Some of the international workers' organizations have also expressed concern for the protection of homeworkers. The International Confederation of Free Trade Unions (ICFTU) adopted a resolution at its 14th World Congress in March 1988, calling for a "world-wide census of home-based workers, for the adoption of international labour standards and for national legislation in all countries where significant numbers of home-based workers are employed guaranteeing their basic rights in terms of working conditions, wages and welfare".[2]

International labour standards

None of the existing ILO Conventions and Recommendations deals specifically with the problems raised by the employment of homeworkers. Nor do they include any definition of "homeworker".

The scope of the instruments on basic human rights (i.e. freedom of association, abolition of forced labour and equality of opportunity and treatment) and employment is of a general nature, covering all workers including those who work at home.

The Discrimination (Employment and Occupation) Convention, 1958 (No. 111), in particular, leaves no doubt that it applies to all persons "at work". As pointed out by the Committee of Experts on the Application of Conventions and Recommendations, the phrase "at work" includes not only persons whose status is that of employees but also those whose status is that of "worker on own account", "employer" or "unpaid family worker".[3]

As to the scope of the instruments concerning minimum age, many of the use the term "employment or work" in order to cover all economic activi regardless of the formal employment status of the persons concerned, leaving r doubt as to their relevance to homeworkers.[4]

A few of these instruments specifically refer to homeworkers. The Worke with Family Responsibilities Recommendation, 1981 (No. 165), calls for th regulation and supervision of terms and conditions of employment homeworkers, many of whom have family responsibilities (Paragraph 21(1) The Vocational Rehabilitation (Disabled) Recommendation, 1955 (No. 99 encourages the employment of the disabled in useful and remunerative work a home (Paragraph 34).

In the field of wages the Minimum Wage-Fixing Machinery Convention 1928 (No. 26), specifically refers to workers employed in homeworking trades In 1985 the Committee of Experts on the Application of Conventions and Recommendations drew the special attention of the countries which had ratifie this Convention or Convention No. 131 of 1970 on the same subject to thei application to homeworking trades, and called for the extension of the minimum wage-fixing system to homeworkers.

Another reference to homeworkers is found in the Maternity Protection Convention (Revised), 1952 (No. 103), which applies to "women employed in industrial undertakings... including women wage earners working at home". The question thus remains whether this implies that homeworkers should be regarded as being employed *in* the undertakings.

In the field of social security, the title of the Old-Age Insurance (Industry, etc.) Convention, 1933 (No. 35), like a few other social security instruments of around 1930, refers to "old-age insurance for persons employed in industrial ... undertakings, ... and [to] outworkers". More recent instruments dealing with social security contain flexibility clauses which are implicitly relevant to homeworkers.

In other ILO instruments the wording used raises some fundamental questions. For example, the Termination of Employment Convention, 1982 (No. 158), applies to all "employed" persons (Article 2(1)); the Workers' Representatives Convention, 1971 (No. 135), deals with "workers' representatives *in* the undertaking". Two questions thus arise given the great differences in situations of homeworkers, whose contracts are often unwritten and ambiguous and whose workplace is not the premises of the employer. The first question is whether all homeworkers should be regarded as "employed" persons in terms of the Conventions and Recommendations. The second is whether homeworkers should be excluded from the notion of "workers *in* undertakings or establishments".

Many of the instruments concerning working hours apply to "persons employed *in* undertakings or establishments", therefore leaving the question of the definition unresolved.

The instruments concerning labour inspection refer to the system of inspection in "workplaces". The Labour Inspection (Agriculture) Convention, 1969 (No. 129), contains a provision (Article 16(2)) setting out the conditions under which inspectors may enter "the private home", which in some cases may well constitute a workplace and thus be subject to labour inspection.[5]

Regarding occupational safety and health, increasing attention appears to have been drawn more recently to the protection of workers outside traditional wage employment. For example, the Occupational Safety and Health Recommendation, 1981 (No. 164), recommends protection of the self-employed analogous to that provided for in other cases covered by the Recommendation and Convention No. 155 on the same subject, (Paragraph 1(2)); and the Safety and Health in Construction Convention, 1988 (No. 167), defines "worker" as any person "engaged" (instead of "employed") in the sector (Article 2(d)). Although the fact that the "workplace" for homeworkers is not the premises of the employer does pose a problem, the term "workplace" (as defined for example in Article 3(c) of the Occupational Safety and Health Convention, 1981 (No. 155)), does not appear automatically to exclude the worker's home, which can still be under the "indirect" control of the employer.

As can be seen, a great many instruments appear explicitly or implicitly to cover homeworkers. However, it is also true that several Conventions contain flexibility clauses that enable ratifying States to exclude certain categories of workers. For example, the Maternity Protection Convention (Revised), 1952 (No. 103), permits ratifying countries to exclude "women wage earners working at home" (Article 7(d)), although only one country out of 31 to have ratified this Convention has so far had recourse to this option. Some social security Conventions (Nos. 24, 25, 35, 36, 37, 38, 39) allow exceptions as regards "outworkers whose conditions of work are not of a like nature to those of ordinary wage earners" (Article 2(2)(d) of each Convention). Some other Conventions provide for possible exclusions in more general terms, referring for example to limited categories of workers in respect of which special and substantial problems of application arise. It is possible that homeworkers are excluded by virtue of such provisions, but there is a lack of information on the extent to which recourse has been had to those flexibility clauses.

The Committee of Experts, in its general observations on minimum wage Conventions in 1985, recognized the practical difficulties of implementing the provisions of the ILO instruments on minimum wages. It has also referred in its general surveys to the exclusion of homeworkers from national legislation in several countries giving effect to the instruments concerned (e.g. in 1981 on the Minimum Age Convention, 1973 (No. 138);[6] in 1984 on the Holidays with Pay Convention (Revised), 1970 (No. 132)).[7] The flexibility of the international standards as described above undoubtedly reflects the consideration of such practical difficulties at the national level. International labour standards developed to take into account the particular situation of this group of workers would help to overcome such problems.

Collection and dissemination of information

In response to growing concern for ensuring social protection for homeworkers, the ILO has undertaken various activities with a view to identifying the main problems and examining possible approaches to providing homeworkers with better protection.

During the 1980s the ILO carried out a number of studies on the employment patterns and conditions of homeworkers in developing countries.

These include case studies on *bidi* workers in Allahabad, India;[8] handicraft workers in Pakistan; and carpet weavers in rural Turkey.[9] Monographs on home work have been prepared for Argentina, India, Philippines, Sri Lanka and Venezuela. A review of literature on rural women and industrial home work in Latin America which sets an agenda for future research has been prepared. In 1985 the ILO was involved in a series of panels on women and home work for an Asian regional conference on women and households, of which selected papers were published in 1987.[10]

Building on work carried out during 1988-89 the Office published a major publication on home work which appeared as a special issue of the *Conditions of Work Digest* (Vol. 8, No. 2/1989). It included a comprehensive analysis of provisions on home work in laws and regulations of more than 70 countries; examples of provisions in collective agreements; information on positions held by international organizations, national institutions, trade unions and employers' organizations and their proposals for future action; and information on programmes aimed at improving the socio-economic situation of homeworkers.

The advance of information and communications technologies has facilitated the spread of electronic work at home, usually referred to as "telework". Work undertaken on this subject resulted in a special issue of the *Conditions of Work Digest* (Vol. 9, No. 1/1990). This publication provides information on the extent of telework and the reasons for its introduction and implications. The *Digest* devotes particular attention to the legal status of teleworkers and to remuneration and productivity, hours of work, changes in work organization and managerial styles, the impact on health and safety, the impact on employment, and the potential of telework in assisting the disabled and other special categories of workers. The *Digest* also contains case descriptions of telework in practice, including initiatives of public authorities and company experiences. It provides an insight into why telework is introduced, how it is organized and its impact on teleworkers.

A further study on home work was prepared in the 1990-91 biennium. It was the last in a series of studies undertaken by the ILO since the beginning of the last decade on what had come to be called "atypical work", a term which covers a relatively wide range of forms of employment that are different from the regular employment relationship. The purpose of this research was to broaden the knowledge of home work, reviewing national law and practice regarding specific aspects, such as conditions of work, remuneration, termination of employment, coverage of homeworkers by trade unions and by collective agreements, etc. Fifteen national monographs were commissioned for the study, and a large number of legal provisions were compiled. The outcome of this research was a comparative study prepared by the Office in 1992, a summary of which was published in the *International Labour Review*.[11]

In response to the conclusions of the Meeting of Experts on the Social Protection of Homeworkers two further studies have been undertaken. One provides examples of best practice covering all the important aspects of conditions of employment and work of homeworkers and home-based teleworkers which could serve as a basis for the formulation of guidelines. It will be published as a discussion paper in the Conditions of Work and Welfare

Facilities Branch Working Papers series. The other study focuses on action programmes for the social protection of homeworkers. Ten case studies of programmes from both developing and industrialized countries are described and assessed as to how successful they have been in making a beneficial impact on the situation of homeworkers by improving their legal rights, their bargaining power, their skills, their opportunities on the labour market and their socio-economic situation generally. The lessons learned from these practical examples will, it is hoped, promote action in other countries. This publication should be available by the middle of 1994.

Meetings

Meeting of Experts on the Social Protection of Homeworkers

At its 244th Session (November 1989) the Governing Body of the International Labour Office authorized the Director-General to prepare and convene a Meeting of Experts on the Social Protection of Homeworkers. The Meeting was held in Geneva from 1 to 5 October 1990.

The agenda of the Meeting, as approved by the Governing Body at its 244th Session, consisted of the following items:

— to examine the nature, extent and problems of homeworking;
— to assess national experience in the protection and organization of homeworkers;
— to advise on approaches and measures that could lead to more effective protection for homeworkers in member States; and
— to advise on future ILO action concerning home work, including the possible need for new international labour standards.

Eighteen experts were invited to the Meeting, six of them appointed by governments, six after consultation with the Employers' group and six after consultation with the Workers' group of the Governing Body.

Several observers also attended the Meeting, representing the United Nations Centre for Social Development and Humanitarian Affairs (UNCSDHA), the Commission of the European Communities (CEC), the European Foundation for the Improvement of Living and Working Conditions, the Arab Labour Organization (ALO), the International Organization of Employers (IOE), the International Confederation of Free Trade Unions (ICFTU), the World Confederation of Labour (WCL), the World Federation of Trade Unions (WFTU), the International Federation of Commercial, Clerical, Professional and Technical Employees (FIET) and the International Textile, Garment and Leather Workers' Federation (ITGLWF).

There was general agreement among the experts that homeworkers needed protection and that concern for their working conditions was justified. They adopted unanimous conclusions on action to be taken at national level and by the ILO, but were divided on the appropriateness of standard-setting in this field. The Employer experts opposed the international regulation of home work on the grounds that it would lead to the expansion of clandestine home work, and that the conditions of home work should remain flexible in order to

promote investment and employment. The Worker experts defended the need for international labour standards on home work. They argued that a Convention was necessary to clarify the status of homeworkers as employees who could organize and negotiate, and to establish the basic principle of equality of treatment between them and other workers. Government experts expressed views both for and against the adoption of new standards. The Meeting of Experts concluded that the Governing Body should weigh the importance of the issues involved in order to decide on appropriate action. See Chapter IV for further information on the discussion.) The full text of the conclusions adopted by the Meeting of Experts is appended as an Annex to this report.

The report on the meeting, entitled *Social protection of homeworkers*, was published by the ILO and distributed widely in the hope that it would assist in the development of policy and action aimed at providing adequate protection to homeworkers.

Regional meetings

Under the International Programme for the Improvement of Working Conditions and Environment (PIACT) an Asian Subregional Tripartite Seminar on the Protection of Homeworkers was held in Manila in December 1988.[12] It was attended by 20 Government, Employer and Worker participants from Bangladesh, China, India, Indonesia, Pakistan, Philippines, Sri Lanka and Thailand. The seminar was the first of its kind and provided an opportunity for an exchange of views and experience on the main problems faced by homeworkers, on different approaches adopted at the national and community level to provide more effective protection to homeworkers and on the type of measures required to improve their employment conditions and welfare. A similar seminar for the Latin American region took place in São Paulo from 22 to 26 October 1990.[13] The 31 participants in the seminar were drawn from Argentina, Brazil, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Honduras, Mexico, Uruguay and Venezuela.

Technical cooperation

Another important means of ILO action is through operational activities which give direct support to action at the national level. In the area of home work, technical cooperation activities were initiated in early 1986 in India under a three-year project funded by the Finnish Government. It was carried out in collaboration with the Self-Employed Women's Association (SEWA) and focused on legal awareness and legal education of women home-based workers. Both self-employed and piece-rate workers were covered by the project. The broad objectives of the project were to support initiatives by women's organizations and governments to promote women's home-based industries and to review legislation, regulations and policies applicable to home-based workers with a view to devising innovative strategies for their application. As the project evolved, occupational safety and health and ergonomic considerations became increasingly important features of the work. From 1990 onwards the project provided new groups of home-based workers with paralegal training. A survey of

rural-based homeworkers was launched in 1992. In 1993 a preliminary review of potential social security schemes suitable for homeworkers was undertaken, and the findings are being reviewed.

A regional project covering Indonesia, Philippines and Thailand was launched in June 1988 for a three-year period. This project, funded by the Danish Government, aimed at poor women workers in rural areas or recent migrants in urban areas engaged in home work. It combined research with technical assistance. The objectives of the project included collection of data, increasing the awareness and recognition of home work amongst concerned parties, promoting the effective application of relevant labour legislation and policies and promoting the organization of women homeworkers. The first phase of the project, completed in 1991, was devoted to information collection, documentation and consultation with government officials and representatives of employers' and workers' organizations.

In 1992, a second phase, aiming at consolidating the formulation and implementation of concrete action plans was launched again with the financial support of the Government of Denmark. The project has been pursuing a dual strategy of promoting employment and enhancing the productivity of homeworkers together with promoting the organization of homeworkers and introducing social protection measures. Within this framework, three main lines of action have been developed:

(1) national awareness-raising campaigns, including the holding of tripartite policy workshops and formation of national advisory and steering committees;

(2) capacity building at two levels:

  (a) at government level, enabling ministries of labour and other responsible departments to devise policy frameworks for home work and mechanisms for follow-up and monitoring and

  (b) promoting the organization of homeworkers themselves;

(3) direct socio-economic assistance to homeworkers.

A recent evaluation of the project in October 1993 reviewed the main achievements in the three countries and in various areas of action.

In all three countries, capacity-building initiatives have strengthened the ability of their governments to undertake research and policy studies, raise national awareness and review legislation applicable to homeworkers. In the Philippines, a draft Bill for homeworkers has been prepared by the Department of Labor and Employment (DOLE). The regulations for subcontracting have been amended and effectively introduced in 1992. In Indonesia, a focal point for homeworkers has been appointed in the Ministry of Manpower (DEPNAKAR) as an important step for the institutionalization of homeworkers' programmes within the government structure. Governments developed action programmes to improve the statistical visibility of homeworkers, set up national policy advisory committees and address the occupational and health hazards affecting homeworkers.

Homeworkers' organizations and/or networks have come into existence in the three countries, albeit taking different forms and institutionalization paths.

In the Philippines homeworkers' organizations, PATAMABA (a national network of homeworkers) has been legally constituted as an autonomous body, with 3,000 members and 60 chapters in 24 provinces. (See also Chapter V on programmes.) In Thailand a network of organizations and associations, HOMENET, dealing with various aspects of home work and especially with the socio-economic advancement of homeworkers, has been formed. In Indonesia several non-governmental organizations have initiated action in favour of homeworkers. The project has helped homeworkers' organizations and networks to strengthen their organizational and managerial capability, to become effective interlocutors of policy-making bodies and active participants in the national advisory committees, and to contribute to the formulation of policies and direct assistance programmes to homeworkers.

In the three countries socio-economic assistance programmes to homeworkers involving skills training, product and market development and credit schemes have been initiated. In Thailand the micro-enterprise development and management training schemes launched by the government have substantially increased the productivity and earnings of homeworkers.

In all three countries an important line of action of the project has been to improve the statistical visibility of homeworkers, in line with the conclusions of the Meeting of Experts on Social Protection of Homeworkers in 1990. Pilot surveys have been launched in order to test various methodologies for data collection and to provide guidelines on the coverage of homeworkers as a separate category in various national census and labour surveys. These efforts, aimed at institutionalizing systematic recording of homeworkers in national statistics, should produce concrete results starting in 1994.

At the regional and international levels, the project has been a catalyst for exchange of experience and networking. Three subregional tripartite workshops held in Manila, Bangkok and Malang (Indonesia) have reviewed practical action in each country. Two study tours to India and Japan have enabled the participants to learn much from experience in these countries, especially with regard to the success of small enterprise development ventures, role of labour inspectorates and sustainability of homeworkers' associations.

A series of publications[14] has documented the results of the surveys, reviews of legislation and organization and practical action of the project. It is also planned to publish in 1994-95 a series of guidelines on the various topics it covers.

At the request of the Government of Viet Nam a preliminary survey on women in the informal sector and homeworking activities was initiated in December 1993 and was to be completed in April 1994. The results will prepare the ground for a second, more comprehensive, project to assist homeworkers. This project, which is expected to start in 1994, will also cover Bangladesh, India and Malaysia.

Notes

[1] Commission of the European Communities: *Homeworking in the EC: Report of the ad hoc working group* (Brussels, 1994).

[2] For further details of these and other positions, see ILO: *Conditions of Work Digest*, Vol. 8, No. 2, op. cit., pp. 168-175.

[3] See ILO: *Equality in employment and occupation*, General Survey by the Committee of Experts on the Application of Conventions and Recommendations, Report III (4B), International Labour Conference, 75th Session, 1988, para. 86.

[4] ILO: *Minimum age*, General Survey by the Committee of Experts on the Application of Conventions and Recommendations, Report III (4B), International Labour Conference, 67th Session, 1981, para. 61.

[5] See ILO: *Labour inspection*, General Survey by the Committee of Experts on the Application of Conventions and Recommendations, International Labour Conference, 71st Session, 1985, para. 166.

[6] ILO: *Minimum age*, op. cit., para. 89.

[7] ILO: *Working time: Reduction of hours of work, weekly rest and holidays with pay*, General Survey by the Committee of Experts on the Application of Conventions and Recommendations, International Labour Conference, 70th Session, 1984, paras. 202-205.

[8] Z. Bhatty: *The economic role and status of women in the beedi industry in Allahabad, India* (Saarbrücken, Verlag Breitenbach, 1981).

[9] Berik, op. cit.

[10] Singh and Kelles-Viitanen, op. cit.

[11] L. Vega Ruiz: "Home work: Towards a new regulatory framework?", in ILO: *International Labour Review*, (Geneva), Vol. 131, 1992, No. 2 (Geneva), pp. 197-216.

[12] ILO: *Proceedings*, Asian Subregional Tripartite Seminar on the Protection of Homeworkers, Manila, 5-9 December 1988 (Geneva, 1989).

[13] The proceedings of the seminar are contained in OIT: *Seminario Regional Tripartito Latinoamericano sobre la Proteccion de los Trabajadores a Domicilio — Nota sobre las labores* (São Paulo, 22-26 de octubre de 1990) (Geneva, 1991), PIACT/1990/2 (Spanish only).

[14] ILO: *Homeworkers of Southeast Asia: The struggle for social protection in the Philippines* (Bangkok, 1992); *Homeworkers of Southeast Asia: The struggle for social protection in Thailand* (Bangkok, 1992); *Homeworkers of Southeast Asia: The struggle for social protection in Indonesia* (Bangkok, 1992); *Practical actions for the social protection of homeworkers in the Philippines* (Bangkok, 1993); *Practical actions for the social protection of homeworkers in Thailand* (Bangkok, 1993); *Practical actions for the social protection of homeworkers in Indonesia* (Bangkok, 1993); *Proceedings*, Subregional Meetings I and II of the ILO-DANIDA Subregional Project on Rural Women Workers in the Putting Out System (RAS/91/M14/DAN) (Bangkok, 1993); *Homeworkers of Southeast Asia: Silent no more* (Bangkok, 1993).

QUESTIONNAIRE

In accordance with article 39 of the Standing Orders of the International Labour Conference, governments are requested to consult the most representative organizations of employers and workers before finalizing their replies to the following questionnaire and to give reasons for their replies. The replies are to reach the International Labour Office in Geneva by 30 September 1994 at the latest.

Most of the questions in this questionnaire are divided into separate sections concerning the possible content of a Convention and the possible content of a Recommendation. You may indicate in answer to any question that the provision should be included in the other instrument.

I. Form of the international instrument or instruments

1. Should the International Labour Conference adopt an instrument or instruments concerning home work?

2. If so, should the instrument or instruments take the form of:

(a) *a Convention?*

(b) *a Recommendation?*

(c) *a Convention supplemented by a Recommendation?*

II. Definitions

3. For the purposes of the instrument or instruments:

(1) Should the term "homeworker" mean a person who, whether or not he or she has the status of employee, carries out home work as defined below?

(2) Should the term "employer" mean any physical or legal person who, either directly or through an intermediary, gives out or causes home work as defined below to be given out to a homeworker?

4. For the purpose of the instrument or instruments, should the term "home work" mean work carried out for a pre-established remuneration by a person in his or her home or in other premises chosen by him or her which results in a product or service as specified by the employer using materials the employer has wholly or mainly provided?

5. Should the instrument or instruments clarify that the term "home work" applies irrespective of whether:

(a) *the work is carried out by the homeworker alone or with the assistance of family members forming part of his or her household?*

(b) *the equipment used is provided by the homeworker, the intermediary or the employer?*

6. Should the instrument or instruments provide that, where necessary, the competent authority should specify further criteria for distinguishing homeworkers from independent workers, taking into account in particular the degree of autonomy and initiative of the person in the design of the product or in the performance of the service?

7. For the purposes of the instrument or instruments:

(1) Should the term "intermediary" mean a person who receives work assignments from an employer with a view to passing them on to a homeworker?

(2) Should the term "worker in the enterprise" mean an employee who is not a homeworker and who performs the same or comparable type of work as the homeworker in the enterprise of the employer or, if there is no such employee, in an enterprise in the branch of activity and region concerned?

III. Content of a Convention

8. Should the Convention provide that each ratifying Member should undertake to adopt, implement and periodically review a national policy on home work in consultation with the most representative organizations of employers and workers and, where they exist, with the organizations of homeworkers and of employers of homeworkers?

9. Should the Convention provide that the national policy on home work should promote equality of treatment between homeworkers and workers in the enterprise through measures intended to improve the situation of homeworkers, having regard to the special characteristics of home work, in respect of:

(a) *the rights to establish and join organizations of their own choosing and to bargain collectively?*

(b) *protection against discrimination in employment and occupation?*

(c) *protection in the field of occupational safety and health?*

(d) *remuneration?*

(e) *social security protection?*

(f) *access to training?*

(g) *other? (Please specify.)*

10. Should the Convention provide that the national policy on home work should be implemented through national laws and regulations, collective agreements, arbitration awards or any other appropriate manner consistent with national practice?

11. Should the Convention provide that respect for the laws and regulations applicable to home work should be ensured by a system of inspection?

12. Should the Convention provide that adequate penalties for violation of the laws and regulations applicable to home work by an employer, an intermediary or a homeworker should be provided for by national laws and regulations and should be effectively enforced?

13. Should the Convention provide that more favourable provisions applicable under other international labour Conventions are not affected?

IV. Content of a Recommendation

General provisions

14. (1) Should the Recommendation provide that a national authority sh be entrusted with overall responsibility for the formulation and implementati a national policy on home work?

(2) Should the Recommendation provide that in addition to consulting organizations referred to in question 8, the national authority referred t paragraph (1) above should make suitable arrangements for the participatio an equal footing of representatives of homeworkers and of employer homeworkers at all appropriate levels?

15. Should the Recommendation provide that as a basis for a national p on home work, detailed information on the extent and characteristics of h work should be compiled and kept up to date?

16. Should the Recommendation provide that when homeworkers are given work, they should be provided by the employer or the intermediary wi written contract or statement of the conditions under which they will work?

Supervision of home work

17. Should the Recommendation provide that competent authorities at national level and, where appropriate to national conditions and practice, at regional, local or sectoral levels, should be responsible for:

(a) *maintaining a register of employers of homeworkers and of intermediari*

(b) *maintaining a register of homeworkers in the area?*

18. Should the Recommendation provide that employers should be requ to notify the competent authority before they give out work to homeworker intermediaries for the first time?

19. Should the Recommendation provide that the competent authority sh specify the information which employers should submit concerning homewor and intermediaries to whom they give out work?

20. (1) Should the Recommendation provide that employers should required to keep a record which shows for each homeworker:

(a) *each batch of work given out?*

(b) *the rate of remuneration and, in the case of piece-rates, the time allowed each piece or batch?*

(c) *costs assumed by the worker and the amount reimbursed in respect of the*

(d) *the gross remuneration due, any deductions made in accordance with natio laws and regulations and the net remuneration paid, together with the dat payment?*

(2) Should the Recommendation provide that employers should be required provide homeworkers with a written statement of each of the matters listed in to (d) *of paragraph (1) above?*

21. Should the Recommendation provide that labour inspectors or other officials entrusted with enforcing the provisions applicable to home work should have the right:

(a) *to be present when home work is given out to homeworkers and when it is returned upon completion?*

(b) *insofar as it is compatible with national law and practice, to enter those parts of a home or other private premises in which home work is carried out?*

22. Should the Recommendation provide that a labour inspector or other official entrusted with enforcing provisions applicable to home work, or the competent authority acting on the report of a labour inspector or such other official, should have the power to issue an order prohibiting the continuation of home work in the event of an imminent danger to the safety or health of a homeworker, his or her family or the public?

23. Should the Recommendation provide that the competent authority should have the power, in cases of serious or repeated violations of the laws and regulations applicable to home work, to prohibit the giving out of work by an employer or an intermediary or the undertaking of home work by a person, either permanently or for a specified period?

Minimum age

24. Should the Recommendation provide that where this is not already the case, national laws and regulations concerning minimum age for admission to employment or work should apply to home work, particularly where it is likely to jeopardize the health, safety or morals of the child or young person?

Remuneration

25. (1) Should the Recommendation provide that rates of remuneration should be fixed by:

(a) *decisions of the competent authority, after consulting the organizations of homeworkers and of employers of homeworkers or, where they do not exist, representatives of homeworkers and of employers concerned?*

(b) *collective bargaining?*

(c) *other appropriate wage-fixing machinery at the national, local or sectoral levels?*

(2) Where homeworkers are paid by the piece, should their remuneration, in application of the principles stated in question 9 (b) and (d):

(a) *be established after an impartial assessment of the time needed to complete the piece?*

(b) *take into account the amount that workers in the enterprise who are paid on a time basis would receive for the time fixed in this assessment?*

26. Should the Recommendation provide that homeworkers should receive compensation for costs incurred and for unavoidable time spent in carrying out their work, in particular:

(a) *expenses such as for the cost of heating, lighting, water, maintenance of machinery and equipment, postal, telephone and facsimile communications?*

(b) *time spent on maintaining machinery, changing tools, sorting, unpacking and packing, and other such operations?*

27. (1) Should the Recommendation provide that national laws and regulations concerning the protection of wages should be applicable to homeworkers?

(2) Should the Recommendation also provide that restrictions should be placed on deductions from a homeworker's remuneration to cover the cost of spoilt materials or defective work?

(3) Should the Recommendation provide that homeworkers should be paid either on delivery of each batch of completed work or at regular intervals of not more than one month?

28. Should the Recommendation provide that the employer and the intermediary, if any, should be jointly and severally liable for payment of the remuneration due?

Social security

29. Should the Recommendation provide that homeworkers should be afforded protection by social security schemes in respect of the same contingencies as workers in the enterprise, preferably through general social security schemes for employees or, if this is not possible, in another appropriate manner, such as affiliation to a special scheme for homeworkers or to a scheme for self-employed workers?

Occupational safety and health

30. Should the Recommendation provide that national laws and regulations should specify the types of work which should be prohibited to be given out to homeworkers for reasons of health and safety?

31. Should the Recommendation provide that homeworkers should be informed of any hazards associated with the work given out to them and of the precautions to be taken, and be provided with, where appropriate, necessary training?

32. Should the Recommendation provide that employers should be required:

(a) *to provide homeworkers free of charge with any necessary personal protective equipment?*

(b) *to ensure that machinery, tools or other equipment provided to homeworkers are equipped with appropriate safety devices and properly maintained?*

33. Should the competent authority draw up, publish and disseminate guidelines concerning the safety and health precautions that homeworkers should observe?

Hours of work, rest periods and leave

34. Should the Recommendation provide that the normal hours of work in the establishment or branch of activity concerned should be used as a basis for

determining the volume of work to be completed by a homeworker within a given period?

35. Should the Recommendation provide that homeworkers should be entitled to benefit from:

(a) *paid public holidays?*

(b) *annual holidays with pay?*

36. Should the Recommendation provide that when under national law or practice paid leave at the cost of the employer is granted to workers in the enterprise in case of sickness or maternity, such leave should also be granted under the same conditions to homeworkers?

Other protective measures

37. Should the Recommendation provide that national laws and regulations in the field of maternity protection should be applicable to homeworkers?

38. (1) Should the Recommendation provide that an employer who has been the sole or principal employer of a homeworker over a minimum period of time, to be specified by the competent authority, should be required to provide the homeworker with written notice prior to the termination of home work?

(2) Should the Recommendation provide that the length of the period of notice should be specified by the competent authority?

(3) Should the Recommendation provide that, during the period of notice, the employer should be required to provide the homeworker with a volume of work, as specified by the competent authority, or to pay the remuneration corresponding to that volume of work?

The rights to organize and to bargain collectively

39. Should the Recommendation provide that any legislative or administrative restrictions or other obstacles to the right of homeworkers to establish and join the workers' organizations of their choice, as well as to the right of organizations of homeworkers to join trade union federations or confederations, should be identified and eliminated?

40. Should the Recommendation provide that employers should be required to provide the workers' organizations concerned, when they so request, with a list of homeworkers who perform work for them?

41. Should the Recommendation provide that measures should be taken to encourage and promote collective bargaining as a means of regulating the terms and conditions of work of homeworkers?

Resolution of disputes

42. Should the Recommendation provide that the competent authority should ensure that there are specific mechanisms for the resolution of disputes between a homeworker and an employer or intermediary, in addition to the judicial procedures available?

PROGRAMMES TO ASSIST HOMEWORKERS

43. Should the Recommendation provide that Members should promote and support programmes which:

(a) *raise awareness of home-work related issues among employers' and workers' organizations, other non-governmental organizations and the public at large?*

(b) *educate homeworkers as to their rights and the kinds of assistance available to them?*

(c) *facilitate the organization of homeworkers?*

(d) *provide training to enable homeworkers to act on their own behalf, improve their skills and expand their employment opportunities and income-earning capacity?*

(e) *establish centres and networks for homeworkers to provide information and to facilitate access to services and assistance as well as to reduce their isolation?*

V. Special problems

44. (1) Are there any particularities of national law or practice which, in your view, are liable to create difficulties in the practical application of an international instrument or instruments as conceived in this report?

(2) If so, how would you suggest that these difficulties be met?

45. (Federal States only) Do you consider that, in the event of a Convention being adopted, the subject-matter would be appropriate for federal action or wholly or in part for action by the constituent units of the federation?

46. Are there, in your view, any other pertinent problems not covered by the present questionnaire which ought to be taken into consideration when the instrument or instruments are being drafted? If so, please specify.

ANNEX

CONCLUSIONS ADOPTED BY THE ILO MEETING OF EXPERTS ON THE SOCIAL PROTECTION OF HOMEWORKERS (1990)

A. Action at the national level

1. Homeworkers constitute an important part of the working population of many developed and developing countries. Current technological changes and developments in the labour market may lead to increasing recourse to home work as a means of employment and production. While home work, under appropriate circumstances, can be an acceptable and even useful type of employment, it can also lead to abuses and disadvantages in the terms and conditions of employment of homeworkers. Renewed efforts should be made by governments, employers' and workers' organizations and other institutions concerned, with a view to providing adequate social protection to homeworkers.

2. The objective of national policies on home work should be to improve the employment conditions and working conditions of existing and potential homeworkers, to protect them from abuses, and to promote equal protection under the law for homeworkers. Policies and programmes for homeworkers should be designed and implemented with the active participation of the employers' and workers' organizations concerned with this type of employment. Initiatives on behalf of homeworkers should also be encouraged in the formulation and implementation of such policies.

3. National policies on homeworkers should be consistent with relevant ILO standards. Special consideration should be given to those standards concerned with freedom of association, collective bargaining and the right to equal opportunity and treatment for workers with family responsibilities.

4. Improvement in the conditions of homeworkers should be actively sought and considered in the framing of policies and programmes aimed at improving employment and working conditions for workers in general. Social protection available to workers performing their job on the premises of the employer should be extended to homeworkers where practicable, taking into account the specific nature and conditions in which home work is carried out.

5. Measures aimed at meeting the needs and conditions of homeworkers, especially those relating to expenses associated with carrying out work in home premises, should also be considered.

6. In addition, training and other measures for homeworkers who wish to become independent or regular wage employees should be an integral part of national policies on home work.

7. Measures at national level in favour of homeworkers should be designed on the basis of information and knowledge of: the extent and sectoral distribution of home work; the nature of the work performed; the individual characteristics of the workers concerned; the problems they face; and other relevant factors. Thus, the development of statistics and the collection of factual information concerning homeworkers should be encouraged.

8. Major aims of policies and programmes for the improvement of the terms and conditions of employment of homeworkers should be to obtain greater visibility for homeworkers, determine their employers and recognize homeworkers as dependent employees.

Legislation and enforcement

9. Each country should have standards providing basic protection to homeworkers through appropriate laws and regulations. The scope and form of these laws and regulations should be based on national practices and conditions.

10. The setting of standards should take into account the needs of homeworkers and the concerns of employers.

11. National laws and regulations aimed at protecting homeworkers should be based on the following considerations, taking into account national practices and conditions:

(a) the need for a clear definition of the term "homeworker";

(b) the need for a written contract indicating the terms and conditions of employment;

(c) determining the responsibilities of subcontractors or intermediaries;

(d) the principle of equal pay for work of equal value;

(e) specification, regulation and, where necessary, prohibition of hazardous activities and dangerous chemicals, and the provision of adequate training and information to homeworkers on occupational health and safety hazards and risks;

(f) entitlement to annual leave with pay and the conditions thereof;

(g) access to social security; and

(h) prohibition of the illegal employment of children.

12. All necessary measures should be taken to ensure the effective enforcement of national laws and regulations. The registration of homeworkers and of those who employ them is desirable both for effective enforcement and the provision of protective and support services.

13. In view of the special difficulties encountered in the enforcement of legislation on home-based workers, effort should be made to reinforce traditional inspection and enforcement instruments through various measures. These could include: access to legal services and inspection at the national and local level; encouraging and involving trade unions, employers' organizations and other non-governmental organizations; dissemination of information among homeworkers on their legal rights, including through such methods as brochures prepared in accessible language on the relevant laws and regulations; and, establishment where appropriate of an office of industrial ombudsman which can monitor conditions and serve as an arbiter of complaints.

Freedom of association and collective bargaining

14. Freedom of association for homeworkers and their right to bargain collectively should be recognized in law and be made effective in practice.

15. To facilitate the exercise of the right of homeworkers to bargain collectively:

(a) Trade unions should give increased attention to the problems of homeworkers and promote their organization.

(b) Given the practical difficulties faced by homeworkers who want to engage in collective bargaining and given the important role collective agreements can play in providing them with adequate social protection, appropriate measures should be taken to allow them access to, and obtain coverage of, such agreements within the framework of Convention No. 98. Where necessary and appropriate, the possibility of using tripartite bodies to establish minimum wage rates and other terms of employment should be considered.

Action programmes

16. While legislation and collective agreements can provide a basis for protecting homeworkers, practical measures are also needed to improve the working and living conditions of homeworkers. Therefore, governments, workers' and employers' organizations and non-governmental organizations should, each in its own field of

endeavour, promote and develop programmes for homeworkers. The following types of programmes could be considered:

(a) Programmes aimed at awareness raising and advocacy on behalf of homeworkers. Information on the nature and extent of home work and problems of homeworkers especially with respect to safety and health and other terms and conditions of work should be collected. It could be used in activities aimed at: (i) educating homeworkers on their rights and on assistance that is available to them; (ii) making policy-makers aware of problems faced by homeworkers and of the need for legislation and/or special programmes for homeworkers; (iii) creating greater awareness among workers' organizations about the needs and conditions of homeworkers and enlisting their assistance in organizing and training them; and (iv) mobilizing community support;

(b) Training programmes to upgrade technical and managerial skills and productivity of homeworkers;

(c) Programmes which facilitate access to regular employment, including vocational training, assistance on how to apply and interview for jobs, expanded child and dependent care, sharing of family responsibilities and workplace accessibility;

(d) Programmes which provide literacy, non-formal education, information and services to homeworkers such as support centres;

(e) Programmes, where appropriate, which provide more independence and security for homeworkers, such as special schemes for providing credit and other benefits to homeworkers and improving marketing of products;

(f) Programmes which organize and empower homeworkers to act on their own behalf.

17. The need for programmes of protection and assistance applies to both men and women homeworkers, although the special conditions and needs of women should be addressed by such programmes.

18. Mechanisms for the exchange of information on programmes which are effective in improving the situation of homeworkers should be promoted.

B. Future ILO action

19. In view of the widespread nature of home work throughout the world and given the need to improve the working and living conditions of homeworkers, the ILO should give increased attention to the problems of homeworkers and the promotion of policies and programmes aimed at the provision of adequate protection.

20. The Office should review the extent to which existing ILO standards provide for the protection of homeworkers. It should also carry out a survey of the extent to which international standards relevant to home work are reflected in national law and practice. In so doing, special attention should be given to the status of homeworkers, registration requirements, remuneration, occupational health and safety, the employment of children, and the obligations of employers and national authorities.

21. The ILO should actively promote action at the national and regional levels in both developed and developing countries by making homeworkers visible, identifying policies and strategies of protection, facilitating enforcement, promoting the organization of homeworkers and assisting in creating and strengthening institutional capacity. It should therefore carry out various interrelated activities including the following:

(a) collection and dissemination of statistics on the extent and distribution of home work and factual information on the economic and social conditions of homeworkers, and preparation of suitable instruments for use in statistical surveys;

(b) in-depth studies on the changing nature and trends of homework, especially telework;

(c) a study of changing trends in international trade and of their impact on home work and the conditions of homeworkers;

(d) public awareness and advocacy campaigns on behalf of homeworkers;

(e) national and regional seminars, especially in those regions where such activities have not yet been organized;

(f) facilitating the exchange of information on successful strategies and programmes aimed at improving the working and living conditions of homeworkers;

(g) preparing guidelines for the formulation of national policies and legislation and for their effective enforcement, as well as for action by employers and workers and their organizations;

(h) providing advisory services and technical assistance in the design and implementation of policies and programmes, especially in respect of training, employment opportunities, and organization of homeworkers.

22. Considering the wide variety of conditions in which home work is carried out, and its diversity, the Governing Body of the ILO should weigh the importance of the issues involved in order to decide on appropriate action by the ILO in this regard.

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